

**From:** [Gualtieri, Francesca](#)  
**Sent:** Friday, October 30, 2020 2:10 PM  
**To:** [Plant, Ashley](#)  
**Subject:** Breaks in LWOP periods (PRA Message)

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FYI

Messaging was sent by LR Ops to PRA management.

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**From:** Saumure, Chantal <[Chantal.Saumure@cbsa-asfc.gc.ca](mailto:Chantal.Saumure@cbsa-asfc.gc.ca)>  
**Sent:** October 30, 2020 1:50 PM  
**To:** Gualtieri, Francesca <[Francesca.Gualtieri@cbsa-asfc.gc.ca](mailto:Francesca.Gualtieri@cbsa-asfc.gc.ca)>  
**Cc:** Murtagh, Josée <[Josee.Murtagh@cbsa-asfc.gc.ca](mailto:Josee.Murtagh@cbsa-asfc.gc.ca)>; Goyette-Lavoie, France <[France.Goyette-Lavoie@cbsa-asfc.gc.ca](mailto:France.Goyette-Lavoie@cbsa-asfc.gc.ca)>  
**Subject:** FW: Breaks in LWOP periods

Hi Francesca,

The following was just brought to Corporate's attention. Can you confirm if the email below from Janis will be sent out by each Regional LR Office to their respective Directors/Managers in their region including Headquarters?

Merci  
Chantal

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**From:** Wright, Cassandra <[Cassandra.Wright@cbsa-asfc.gc.ca](mailto:Cassandra.Wright@cbsa-asfc.gc.ca)>  
**Sent:** October 30, 2020 10:44 AM  
**To:** Lamoureux, Monique <[Monique.Lamoureux@cbsa-asfc.gc.ca](mailto:Monique.Lamoureux@cbsa-asfc.gc.ca)>; Ladislao, Sheila <[Sheila.Ladislao@cbsa-asfc.gc.ca](mailto:Sheila.Ladislao@cbsa-asfc.gc.ca)>; Forte, Anne <[Anne.Forte@cbsa-asfc.gc.ca](mailto:Anne.Forte@cbsa-asfc.gc.ca)>; Larose, Marc <[Marc.Larose@cbsa-asfc.gc.ca](mailto:Marc.Larose@cbsa-asfc.gc.ca)>; Nadon, Chantal <[Chantal.Nadon@cbsa-asfc.gc.ca](mailto:Chantal.Nadon@cbsa-asfc.gc.ca)>; Levasseur, Nathalie <[Nathalie.Levasseur@cbsa-asfc.gc.ca](mailto:Nathalie.Levasseur@cbsa-asfc.gc.ca)>; Allain Osborne, Claudelle <[Claudelle.Allain.Osborne@cbsa-asfc.gc.ca](mailto:Claudelle.Allain.Osborne@cbsa-asfc.gc.ca)>  
**Cc:** Evans-Hill, Paula <[Paula.Evans-Hill@cbsa-asfc.gc.ca](mailto:Paula.Evans-Hill@cbsa-asfc.gc.ca)>; Carpinteiro, Lisa <[Lisa.Carpinteiro@cbsa-asfc.gc.ca](mailto:Lisa.Carpinteiro@cbsa-asfc.gc.ca)>  
**Subject:** Breaks in LWOP periods

Hi everyone,

FYI – PTI.

Thank you,

## Cassandra Wright

A/Manager of Compensation Operations and Business Transformation  
Labour Relations and Compensation Directorate  
Canada Border Services Agency / Government of Canada  
[Cassandra.Wright@cbsa-asfc.gc.ca](mailto:Cassandra.Wright@cbsa-asfc.gc.ca) / Tel: 343-291-5896 Cel:

I/Gestionnaire d'opération de la rémunération et transformation des affaires  
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## **TIMELINESS PAYS!/ ÊTRE À TEMPS, C'EST PAYANT!**

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**From:** Evans-Hill, Paula <[Paula.Evans-Hill@cbsa-asfc.gc.ca](mailto:Paula.Evans-Hill@cbsa-asfc.gc.ca)>  
**Sent:** October 29, 2020 1:36 PM  
**To:** Carpinteiro, Lisa <[Lisa.Carpinteiro@cbsa-asfc.gc.ca](mailto:Lisa.Carpinteiro@cbsa-asfc.gc.ca)>; Wright, Cassandra <[Cassandra.Wright@cbsa-asfc.gc.ca](mailto:Cassandra.Wright@cbsa-asfc.gc.ca)>  
**Subject:** Breaks in LWOP periods

Here is what Janis sent out to Prairie Management

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**From:** Smith, Janis <[Janis.Smith@cbsa-asfc.gc.ca](mailto:Janis.Smith@cbsa-asfc.gc.ca)>  
**Sent:** October 29, 2020 6:25 AM  
**To:** CBSA.F Prairie RMC / CGR Prairie F.ASFC <[PrairieRMC-CGR@cbsa-asfc.gc.ca](mailto:PrairieRMC-CGR@cbsa-asfc.gc.ca)>  
**Cc:** Olynyk, Shannon <[Shannon.Olynyk@cbsa-asfc.gc.ca](mailto:Shannon.Olynyk@cbsa-asfc.gc.ca)>; Evans-Hill, Paula <[Paula.Evans-Hill@cbsa-asfc.gc.ca](mailto:Paula.Evans-Hill@cbsa-asfc.gc.ca)>  
**Subject:** Breaks in LWOP periods

Hello Directors,

In some regions it has been normal practice to allow employee's to split two periods of leave without pay (LWOP) with a day of paid leave. These requests are often made with no intention to return to work and in order to minimize the financial implications of an extended period of LWOP by circumventing the double contributions and benefit deficiencies. This was recently raised by and subsequently discussed nationally within Labour Relations to develop a consistent approach for these types of requests moving forward.

It has been determined that, while each request should be considered on it's own merits, if the intent behind the single and/or minimal paid leave request is solely to avoid financial implications, then it is not within the spirit of the collective agreement and should not be permitted. This position has been validated by TBS and is being applied nationally.

For greater clarity, below are examples of requests that should not be approved:

Example 1:

- Employee requests LWOP for Care of Family from June 4<sup>th</sup> to September 3<sup>rd</sup>
- Employee requests vacation leave on September 4<sup>th</sup>
- Employee requests LWOP for Care of Family from September 5<sup>th</sup> to December 4<sup>th</sup>

If the vacation leave requested is to ensure their LWOP does not span over 3 months which would result in the employee avoiding potential financial implications as it relates to their pension and benefits, the vacation leave request should be denied.

Example 2:

- Employee is on 1 year maternity leave/parental leave which expires October 6<sup>th</sup>
- Employee requests vacation leave on October 7<sup>th</sup>
- Employee requests LWOP for Care of Family for 6 months starting October 8<sup>th</sup>

If the vacation leave requested is to minimize the financial impacts the extended period of LWOP would have, the vacation leave request should be denied.

Should you have any questions or wish to discuss further, please contact your LR advisor.

Thank you,  
Janis Smith

Assistant Director, Workplace Issues Management - West Portfolio  
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Directrice Adjointe, Gestion des enjeux en milieu de travail – Portefeuille de l'ouest  
Direction générale des ressources humaines, Agence des services frontaliers du Canada /  
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[Janis.Smith@cbsa-asfc.gc.ca](mailto:Janis.Smith@cbsa-asfc.gc.ca) / Cellulaire: / ATS: 866-335-3237



# Atlas

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## Leave with Income Averaging

### Page due for review

More than 1 year has passed since the content of this page was last updated or reviewed. To confirm the accuracy of this content, please contact Web Services at [web\\_services\\_web@cbsa-asfc.gc.ca](mailto:web_services_web@cbsa-asfc.gc.ca).

Leave with income averaging allows indeterminate employees to voluntarily reduce their time at work by taking a period of leave without pay and having the reduced income averaged over a period of 12 months.

### Human Resources Delegation

Action	Degree of Discretion	Human Resources Delegation
Approves leave with income averaging	Discretionary	CBSA -1 to -4 <sup>1</sup>

<sup>1</sup>

- \* Delegation of Human Resources Authorities: CBSA [Schedule 2H](#)
- \* [Treasury Board Secretariat Directive on Terms and Conditions of Employment](#)
- \* [Directive on Leave and Special Working Arrangements](#)

### General

The employee's pay would be reduced and averaged out over the 12-month period to reflect the reduced time at work; however, his or her pension and benefits coverage, as well as premiums and contributions, would continue at the pre-arrangement levels.

The employee continues to be subject to the provisions of the relevant collective agreement or terms and conditions of employment.

The leave without pay portion of the working arrangement may be taken in two periods within the 12-month period. Each period must be at least 5 weeks and the sum of the two periods must not exceed 3 months.

Although persons participating in the leave with income averaging working arrangement receive income throughout the 12-month period, the person is deemed to be on leave without pay during the non-work period of the arrangement.

The 12-month leave arrangement must commence before proceeding on the leave without pay portion of the arrangement, in other words, the paperwork must be processed and the employee must be on the reduced salary prior to taking the leave.



Leave code 1040 should be entered for leave with income averaging in ESS/MSS for the leave without pay portion of the arrangement.

Requests for leave with income averaging involve a significant amount of processing and attention to detail on the part of Compensation. Given high volumes of work, Compensation ideally requires four (4) week' notice to prepare the file prior to the employee's departure on leave without pay.

## Manager Obligations

- Managers will advise their Regional Compensation Office as early as possible (ideally 4 weeks at a minimum) prior to the employee's leave without pay period, by email with the approved and signed LIA request attached, with "Urgent – LIA Request" in the heading.
- When leave with income averaging is granted to an employee, the employee's manager must ensure that Treasury Board Secretariat's **Policy on Conflict of Interest and Post-Employment** and CBSA's **Code of Conduct (PDF, 2.2 MB)** continue to be applied.
- Consistent with the Code of Conduct, CBSA employees, including those absent on leave with income averaging, must consult with their manager on any outside employment and/or activities. If there is any doubt that either might subject the employee to demands incompatible with his/her official duties, or cast doubt on his/her ability to perform his/her duties or responsibilities in a completely objective manner, the employee is required to complete and submit a **Conflict of Interest Report (PDF, 2.68 MB)** to his/her manager detailing the outside employment and/or activities that may give rise to a conflict of interest with the employee's official duties.

## Employee Obligations

- Advise management of the request as early as possible, keeping in mind that in order to avoid overpayment and ensure accurate processing, Compensation requires at least 4 weeks' notice to process the arrangement prior to employees departing on the leave without pay period.
- Submit the completed Application for Leave with Income Averaging form (TBS 325-10E) for approval.
- Complete and submit all other leave requests up to the period of leave without pay.
- Advise management of any changes to the period of leave without pay.
- Agree not to work elsewhere in the federal public service while on leave without pay.
- In order to avoid an overpayment, refrain from taking the leave portion of the arrangement, once approved, until a written confirmation has been received from Compensation that the LIA is registered in the pay system.

## Procedure for Requesting and Granting Leave with Income Averaging

- Employees are expected to respect established procedures to advise their manager of their anticipated absence from work, and can refer to the Standard Operating Procedure for Requesting, Recording and Authorizing Leave for the range of expectations and responsibilities.
- Ideally, requests should be submitted to management for approval at least five (5) weeks in advance of the start of the leave without pay period.
- Managers will ensure that requests for leave with income averaging are provided to them in writing, including the period during which the leave is to be taken.
- Managers will need to ensure that requests for leave are granted such that absences do not negatively impact operational requirements.
- Managers will confirm in writing their decision to allow, deny or partially deny an employee's request for leave with income averaging.
- When granting such leave, managers must ensure that Treasury Board Secretariat's **Policy on Conflict of Interest and Post-Employment** and CBSA's **Code of Conduct (PDF, 2.2 MB)** are applied.

A decision to grant leave with income averaging is based on operational requirements. A manager is justified to refuse a leave request if an employee's absence will negatively affect the operational requirements – for example, when the employee's absence would result in an acceptable level of

service, or a below-minimum number of staff on duty. To determine operational requirements, a manager must review the actual or expected workload for the period during which the employee has requested to take their leave without pay period.



- A manager must make a decision concerning operational requirements on the best information available at the time that a leave request is received.
- A thorough evaluation confirms that for the 12-month work arrangement period it is operationally feasible to allow this work arrangement (in other words, the quality of service or costs associated with service delivery would not be adversely affected).
- Managers should justify the denial of leave with income averaging requests based on operational requirements, and not on the grounds that if leave was granted leave, overtime would have to be assigned, or additional costs incurred to replace the employee on leave.

## Monitoring

Managers are expected to stay in touch with employees on leave without pay for other reasons to ensure that the employee will be returning to the workplace and take appropriate steps as warranted.

Managers are expected to monitor employee leave usage for patterns of use. The Human Resources Branch will be monitoring the use of leave with income averaging at the Agency level in conjunction with its functional responsibilities with respect to the management of leave.

Date modified: 2014-06-30  
Reviewed: 2019-11-14

# Atlas

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## Leave without Pay for Personal Needs

### Page due for review

More than 1 year has passed since the content of this page was last updated or reviewed. To confirm the accuracy of this content, please contact Web Services at [web\\_services\\_web@cbsa-asfc.gc.ca](mailto:web_services_web@cbsa-asfc.gc.ca).

An employee may be granted a leave without pay for personal needs, in conjunction with operational requirements. In granting such a leave, the manager will consider the best interests of the employee as well as of the organization. The employee will be reinstated to the same or, at the department's or division's discretion, a similar position upon his or her return to work.

### Human Resources Delegation

Action	Degree of Discretion	Human Resources Delegation
Approves leave without pay for personal needs up to three months	Discretionary	CBSA -5 <sup>1</sup>
Approves leave without pay for personal needs for more than three months, but not exceeding one year	Discretionary	CBSA -4 <sup>1</sup>

- <sup>1</sup>
- Delegation of Human Resources Authorities: CBSA [Schedule 2H](#)
  - [Collective Agreements](#)
  - [Treasury Board Secretariat Directive on Terms and Conditions of Employment](#)
  - [Leave Articles in the collective agreements](#)

### General

The term "personal needs" may include any reason which has not been specifically addressed by the terms of the applicable collective agreement.

Employees are generally entitled to two periods of leave without pay over the course of their career with the Public Service, which can be taken in two segments:

- One for a period no longer than 3 months;
- One for a period no longer than 12 months.

Managers can choose to grant the leave consecutively, such that an employee is away for 15 months.

Note:

- Employees are entitled to only two periods of leave without pay for personal needs, regardless of the duration of the leave.
- Employees choosing not to take the maximum allowable leave for a segment, i.e. 3 or 12 months, cannot subsequently be granted the balance of the leave not taken for a specific segment. For example, an employee requesting leave without pay for personal needs for 8 weeks will be deemed to have exhausted the entitlement for the period of 3 months or less. Should that employee then wish to take 4 weeks at another time over the course of his or her career, having that leave granted would mean the employee would have exhausted both segments of leave without pay for personal needs.

Leave without pay for personal needs can be used in conjunction with maternity or parental leave with the consent of the manager.

## Procedure for Requesting and Granting Leave Without Pay for Personal Needs

- Managers will ensure that requests for personal leave without pay are provided in writing, including the period during which the leave is to be taken.
- Managers will need to ensure that requests for leave are granted such that absences do not negatively impact operational requirements.
- Managers will confirm in writing their decision to allow, deny or partially deny an employee's request for leave without pay for personal needs.
- When granting such leave, managers must ensure that Treasury Board Secretariat's [Policy on Conflict of Interest and Post-Employment](#) and CBSA's [Code of Conduct \(PDF, 2.2 MB\)](#) are applied.

Managers will consult their Labour Relations Advisor prior to denying a request for leave without pay for personal needs.

## Management Obligations

When leave without pay for personal needs is granted to an employee, the employee's manager must ensure that Treasury Board Secretariat's [Policy on Conflict of Interest and Post-Employment](#) and CBSA's [Code of Conduct \(PDF, 2.2 MB\)](#) continue to be applied.

Consistent with the *Code of Conduct*, CBSA employees, including those absent on leave without pay for personal needs, must consult with their manager on any outside employment and/or activities. If there is any doubt that either might subject the employee to demands incompatible with his/her official duties, or cast doubt on his/her ability to perform his/her duties or responsibilities in a completely objective manner, the employee is required to complete and submit a [Conflict of Interest Report \(PDF, 2.68 MB\)](#) to his/her manager detailing the outside employment and/or activities that may give rise to a conflict of interest with the employee's official duties.

## Employee Obligations

An employee who proceeds on leave without pay for personal needs, and knowingly fails to advise the Employer of a potential conflict of interest prior to proceeding on leave, may be subject to disciplinary action up to and including termination of employment.

If an employee's situation changes while on leave without pay for personal needs, the employee must notify the Employer if there is a possibility that any outside employment and/or activities may result in a conflict of interest with an employee's official duties. In such a case, the Employer may require that the outside employment and/or activities be curtailed, modified or ceased.

## Monitoring

Managers are expected to stay in touch with employees on leave without pay for other reasons to ensure that the employee will be returning to the workplace and take appropriate steps as warranted.

  
Date modified: 2014-04-09  
Reviewed: 2019-11-14



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## Leave Without Pay for Relocation of Spouse

### Page due for review

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Leave without pay (LWOP) for relocation of spouse provisions in collective agreements allow for an employee to take unpaid absence from work for the purpose of relocating along with their spouse.

Action	Degree of Discretion	Human Resources Delegation
Approves up to 1 year of leave without pay (permanent relocations)	Non-discretionary	CBSA -1 to -4 <sup>1</sup>
Approves for more than 1 year but not exceeding 5 years of leave without pay (temporary relocations)	Non-discretionary	CBSA -1 to -4 <sup>1</sup>

- <sup>1</sup>
- Delegation of Human Resources Authorities: CBSA [Schedule 2H](#)
  - [Collective Agreements](#)
  - [Treasury Board Secretariat Directive on Terms and Conditions of Employment](#)
  - [Leave Articles in Collective Agreements](#)

### General

An employee whose spouse relocates temporarily is entitled to up to five years leave without pay. The leave applies even when the spouse is not an employee of the public service.

An employee whose spouse relocates permanently is entitled to one year leave without pay.

An employee is entitled to leave for relocation of spouse regardless of whether the spouse's relocation is voluntary or involuntary. It is not necessary for the spouse's decision to relocate to be job-related for an employee to be entitled to this leave. An employee who relocates again during his or her leave for temporary relocation of spouse shall only be entitled to a new five-year leave period if he or she has been appointed to a permanent position between these two relocations.

An employee is entitled to a single period "up to" a certain period for the purpose of relocation of spouse. If the employee is on leave for temporary relocation of spouse and is transferred again, the leave continues – they would not receive a new period of LWOP for temporary relocation as a result.

Relocations for the periodic re-assignment of Armed Forces personnel are to be treated as temporary relocations.



Leave without pay for relocation of spouse may also be granted, in accordance Treasury Board Secretariat's **Directive on Terms and Conditions of Employment**, to employees whose terms and conditions of employment are governed by that Directive.

Leave code 9300 should be entered for leave without pay for relocation of spouse in ESS/MSS.

## Manager Obligations

Managers must:

- Consult with Regional Labour Relations if there are concerns as to the validity of the leave request.
- Ensure that the leave is granted only in accordance with the applicable collective agreement.
- Grant relocation of spouse leave without pay as requested, unless he or she has concerns as to the validity of the leave request.
- Provide employees with advance written notice, as practical and reasonable, of the approval or denial of the leave.
- When granting such leave, managers must ensure that Treasury Board Secretariat's **Policy on Conflict of Interest and Post-Employment** and CBSA's **Code of Conduct (PDF, 2.2 MB)** are applied.

## Procedures for Requesting and Granting Leave for Relocation of Spouse

- Employees are expected to respect established procedures to advise their manager of their anticipated absence from work, and can refer to the Standard Operating Procedure for Reporting, Recording and Authorizing Leave for the range of expectations and responsibilities.
- Managers may request additional information from the employee to confirm the spousal relationship or to confirm a move is indeed taking place.

## Monitoring

Managers are expected to stay in touch with employees on leave without pay for relocation of spouse to ensure that the employee will be returning to the workplace and take appropriate steps as warranted.

Managers are expected to monitor employee leave usage for patterns of use. The Human Resources Branch will be monitoring leave transactions at the Agency level to determine leave usage impacts on the organization.

Date modified: 2014-07-14  
Reviewed: 2019-11-14

# Atlas

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## Leave Without Pay for the Care of Immediate Family

### Page due for review

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Collective agreements governing CBSA employees provide for leave without pay for the care of immediate family. The definition of 'family', or 'immediate family', varies between collective agreements and can be found in the applicable collective agreement's Definitions section, or in the leave without pay for the care of immediate family article itself.

Some collective agreements provide specific provisions under the leave without pay for the care of immediate family article for compassionate care leave. To be eligible for compassionate care leave, the employee must provide the Employer proof that he or she is in receipt of, or awaiting, Employment Insurance Compassionate Care Benefits. See the applicable collective agreement for specifics.

### Human Resources Delegation

Action	Degree of Discretion	Human Resources Delegation
Approves leave without pay for the immediate care of a family member:	Non-discretionary	
Up to 1 year		CBSA – 5 <sup>1</sup>
For more than 1 year but not exceeding 5 years		CBSA – 4 <sup>1</sup>

- <sup>1</sup>
- Delegation of Human Resources Authorities: CBSA [Schedule 2H](#)
  - [Collective Agreements](#)
  - [Leave Articles in Collective Agreements](#)

### General

Collective agreements prescribe that:

- Employees request leave without pay for the care of immediate family (LWOPCF) in writing as far in advance as possible, but not less than four weeks in advance of its commencement, unless such notice cannot be given because of urgent or unforeseen circumstances.
- LWOPCF must be granted for a minimum of three weeks, and the total leave granted must not exceed five years during an employee's total period of Public Service employment.



- Some or all periods of LWOPCF are to be granted or scheduled subject to operational requirements, or continued service delivery.
- LWOPCF for compassionate care may be granted for period of less than three weeks and may exceed the five year maximum, when an employee provides the Employer proof that he or she is in receipt or awaiting Employment Insurance Compassionate Care Benefits.

Managers should consult Regional Labour Relations when there are concerns that approving LWOPCF would unduly impact operational requirements, or continued service delivery.

A period of leave without pay may affect an employee's pension, leave accrual, pay increment, etc. Managers are advised to invite employees to discuss this with their Compensation Advisor.

## **Manager Obligations**

Managers must:

- Ensure that LWOPCF and compassionate care leave are granted only in accordance with the applicable collective agreement.
- Grant LWOPCF as requested, unless he or she has concerns as to the validity of the leave request.
- Provide employees with advance notice, as practical and reasonable, of the approval or denial of LWOPCF and compassionate care leave.

Managers should consult with Regional Labour Relations if there are concerns as to the validity of leave requests.

## **Procedures for Requesting and Granting LWOPCF and Compassionate Care Leave**

- Employees are expected to respect the established procedures to advise their manager if they will be absent from work, and can refer to the Standard Operating Procedure for Reporting, Recording and Authorizing Leave for the range of expectations and responsibilities.
- Managers should advise employees in writing of the approval or denial of requests for leave.

Note:

- Dependent on the applicable collective agreement, a manager can be justified to refuse a request for LWOPCF if an employee's absence will negatively affect the minimum operational requirements, or continued service delivery.
- Operational requirements speaks to an employee's absence resulting in an unacceptably low level of service, or a below-minimum number of staff on duty. Continued service delivery speaks to the service provided by the employer not being interrupted, ceasing or coming to an end.
- To determine operational requirements or continued service delivery, a manager must review the actual or expected workload for the period during which the employee has requested LWOPCF.

Managers should justify the denial of leave requests based on operational requirements, and not on the grounds that if leave was granted leave, overtime would have to be assigned, or additional costs incurred to replace the employee on leave.

## **Monitoring**

Managers are expected to monitor employees' usage of LWOPCF and compassionate care leave to ensure that it is granted only in accordance with the applicable collective agreement.

The Human Resources Branch will be monitoring the use of LWOPCF and compassionate care at the Agency level in conjunction with its functional responsibilities with respect to the management of leave.

  
Date modified: 2014-04-09  
Reviewed: 2019-11-14

# Atlas

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## Requesting, recording and authorizing leave Standard Operating Procedure

### Introduction

In an on-going effort to improve leave administration within the Canada Border Services Agency (CBSA), the Human Resources Branch is endeavouring to bring more rigour to the requesting, recording and authorizing of leave transactions. The audit of leave management at the Agency conducted in 2013 revealed that it is difficult to validate the accuracy of Employee Self-Service (ESS) transactions when they are not necessarily supported by documentation. As such, this Standard Operating Procedure has been developed to standardize the process of documenting, recording and authorizing leave for employees of the CBSA.

This document establishes the framework for reporting of leave. The content of this document is in accordance with the collective agreements, and Treasury Board Secretariat (TBS) Policies and Directives. In the event that this Standard Operating Procedure is in contradiction with the collective agreements and/or the TBS Policies and Directives, the collective agreement and the TBS Policies and Directives shall take precedence.

### Principles

Employees are extended leave entitlements in accordance with the collective agreements and the TBS Policies and Directives.

The management of leave is a shared responsibility of management and employees.

Employees may request leave in accordance with their entitlements outlined in the respective collective agreement and/or the TBS Policies and Directives.

Managers will ensure leave requests respect the provisions of the applicable collective agreement and relevant TBS Policies and Directives when approving or recommending approval of leave. When managers have questions with respect to the application of leave provisions, they are to contact their Labour Relations Advisor.

Leave is to be submitted and approved by the manager within the timeframes established for anticipated or unanticipated absence.

### Definitions

#### Anticipated Absence

Means an absence that is known ahead of time by the employee, such as annual leave or medical appointments.

#### BSF 509

Time and Activity Record ' paper time sheet

#### Delegated Authority

Defined in accordance with Schedules 1 (Delegated Levels) and 2H (Delegated authority for operational matters such as hours of work, overtime, leave, etc.)

**Formal Approval**

Means the approval obtained from the delegated authority that is recorded on a timesheet (BSF 509 or ESS (Employee Self-Service)).

**Leave**

Means authorized absence from duty by an employee during his or her regular hours of work.

**Pre-Approval**

Means the approval obtained from the delegated authority in writing before a formal leave request is submitted via ESS or by paper timesheet BSF 509. This written confirmation becomes the supporting documentation to the leave transaction registered in the Employee Self-Service (ESS) portal and subsequently authorized by the manager through MSS (Manager's Self-Service).

**Unanticipated Absence**

Means an absence that is not known ahead of time, such as illness or a family emergency.

**Responsibilities****Employee responsibilities****General**

- Ensure a sufficient balance of leave credits to cover the request.
- Notify the manager of any and all absences/leave requests at the earliest possible time.
- Ensure absences/leave requests are in accordance with the collective agreement, or applicable TBS Policy and/or Directive.
- Submit a formal leave request (leave transaction in ESS or paper BSF 509).

**Anticipated leave**

- Obtain pre-approval for the leave via an email to the manager and complete an ESS leave transaction or paper BSF 509, as applicable, prior to the leave commencement date.
- For Leave with Income Averaging, requests must be submitted to management for approval at least five (5) weeks in advance of the start of the leave.

**Unanticipated leave**

- Upon notifying management of the absence, employees are expected to provide their manager an expected return to work date.
- If requested by management, employees are expected to submit documentation to support their absence.
- Complete the leave transaction via the ESS portal or through a paper BSF 509, as applicable, within three (3) business days of being back at work.

**Leave without pay**

- Minimize overpayments by verifying personal banking records to ensure that pay is stopped in accordance with the absence and, should regular pay continue, remind management to advise Compensation of the absence.

## Management responsibilities

### General

- Ensure absences/leave requests are granted in accordance with the applicable collective agreement and relevant TBS Policies and Directives.
- Verify the employee's leave report to ensure they have sufficient leave credits to cover their request before issuing the pre-approval.
- Keep a record of the pre-approval electronically or in the employee's file for duration of employment.
- Consult MSS at least once (1) per week to review pending leave transactions.
- Verify MSS entries or review BSF 509 forms, as applicable, to ensure the appropriate leave codes have been submitted.
- Process MSS entries or BSF 509 forms, as applicable, at least once (1) per week.

### Anticipated leave

- Pre-approve all leave requests via email and authorize via MSS or BSF 509, where applicable, prior to the leave commencing.
- Approve requests for Leave with Income Averaging in writing within five (5) business days from the receipt of the request. Approval must be submitted to Regional Compensation for processing at least four (4) weeks in advance of the leave commencing.

### Unanticipated leave

- If contacted by phone, immediately acknowledge the absence by sending an email to the employee's work account and include the expected return to work date.
- Keep medical notes on the Compensation file, where applicable.
- Remind the employee upon his or her return to work that the leave request form must be completed within three (3) business days.
- Authorize the leave request form via MSS or BSF 509, where applicable, within three (3) business days of the employee's return to work.
- If the leave request form has not been submitted within the specified time, remind the employee to do so before close of business day; confirm that it has been done.
- In instances where an employee does not have sufficient leave credits to cover the absence, the employee may be granted leave without pay for the portion of leave not covered by paid leave credits. In these instances, Labour Relations is to be consulted on the appropriate leave without pay entitlement(s) for the employee. Once the employee is away from work for six (6) business days without pay, contact the employee's Compensation Advisor to have the employee's pay stopped (the employee is temporarily struck off strength). Notify the employee, either by phone or personal email if available, that pay will be stopped. Keep a record of this action either electronically or in the employee's file.

### Role 43 key responsibilities

- Ensure timely and accurate entry of data of paper BSF 509 forms.

### Labour Relations and Compensation Directorate

- Provide advice and guidance to management on leave management.

- Provide functional direction to management on the application of collective agreement leave provisions and TBS Policies and Directives.
- Establish and maintain a monitoring program, which includes monitoring the process for leave requesting, recording, and authorizing leave.
- Report issues to relevant Branch Vice-Presidents for corrective action.
- Monitor, on a risk basis, leave usage and leave transactions.

## **Procedures**

### **Anticipated leave**

1. Employees will send an email to their manager requesting leave in advance of taking the leave and wait for confirmation before recording the leave request in the ESS or completing paper BSF 509, where applicable.
2. Management will verify the employee's leave balances in the MSS and against the provisions of the collective agreement and/or the TBS and CBSA Policies and Directives.
3. Management will confirm, against the Delegations of Authority, that it has the authority to approve the leave request. In instances when a manager does not have the authority, the request will be forwarded to the delegated authority with a recommendation to approve or deny.
4. The delegated authority will confirm, by way of written response to the employee's work email, whether the leave request is pre-approved or denied. In instances when the request is denied, management will advise the employee in writing of the reason why the request has been denied.
5. The manager will keep a record of the request and response either electronically or in the employee's file.
6. If the leave is approved, employees will record their leave in ESS and release it to management for authorization prior to taking the leave; where applicable, employees will fill out a BSF 509.
7. Managers will consult MSS as applicable, at least once per week for pending leave approvals, review the requests to ensure valid leave codes and hours, and authorize all leave transactions per agreements with staff prior to the leave commencing.
8. Managers will complete their portion of the BSF 509 within 1 week of having received it from an employee, review it for validity of leave codes and hours, and submit the signed form to the Role 43 Keyers within the same timeframe.
9. For Leave with Income Averaging Requests, employees will send their request to the manager at least five (5) weeks in advance of the leave commencing. Management will approve the request within one (1) week of the request being submitted. Management will then forward the approved request to Regional Compensation for processing at least four (4) weeks in advance of the leave commencing.

### **Unanticipated leave**

1. Employees will advise their managers either by phone or by email that they will be away from work and provide an expected return to work date.
2. Management will verify the employee's leave balances in the MSS and against the provisions of the collective agreement and/or the TBS Policies and Directives.
3. Management will confirm, against the Delegations of Authority, that it has the authority to approve the leave request. In instances when a manager does not have the authority, the

request will be forwarded to the delegated authority with a recommendation to approve or deny.



4. Managers will acknowledge the phone message/discussion/email in writing via email to the employee's work account (with a copy to the home account if the notice was provided in that fashion) and will outline the expected return to work date and any expectations which were discussed with the employee. Management will confirm, in writing, what type of leave will be approved for the absence.
5. Managers will keep a record of this notice either electronically or in the employee's file.
6. As applicable, Managers will keep notes from medical professionals on the Compensation file.
7. Employees will record their absence in the ESS or complete a BSF 509, as applicable, no later than three (3) business days after they are back at work and release it for authorization by the manager.
8. Managers will authorize leave via the MSS portal, or by signing the BSF 509, within three (3) business days of the employee's return to work.
9. If the employee has not submitted a leave form within three (3) business days of the return to work, the manager will remind the employee to do so before close of business on the day the reminder is issued.
10. If the employee does not complete the leave form within the prescribed timeframe, the manager will advise the employee that failure to comply with the established procedure may result in disciplinary action.
11. In instances where an employee does not have sufficient leave credits to cover the absence, the employee may be granted leave without pay for the portion of leave not covered by paid leave credits.
  - a. Managers are expected to consult their Labour Relations Advisor to discuss appropriate leave without pay entitlements for the employee.
  - b. Once the employee is away from work for six (6) business days without pay, management is to contact the employee's Compensation Advisor to have the employee's pay stopped.
  - c. The manager is to also contact the employee by phone or personal email if available to advise that pay will be stopped. The manager will keep a record of this action either electronically or in the employee's file.

## Authorities and references

1. Collectives Agreements
2. TBS Directive on Leave and Special Working Arrangements
3. TBS Policy on Terms and Conditions of Employment
4. TBS Directive on Terms and Conditions of Employment
5. TBS Directive on Terms and Conditions of Employment for Certain Excluded/Unrepresented Employees
6. TBS Terms and Conditions of Employment for Students
7. CBSA Delegation of Authority - Schedules 1 (Delegated Levels) and 2H (Delegated authority for operational matters such as hours of work, overtime, leave, etc.)

Date modified: 2018-10-22  
Reviewed: 2020-06-16

# Atlas

Home > HRB > Labour Relations

## Sick Leave Without Pay

### Page due for review

More than 1 year has passed since the content of this page was last updated or reviewed. To confirm the accuracy of this content, please contact Web Services at [web\\_services\\_web@cbsa-asfc.gc.ca](mailto:web_services_web@cbsa-asfc.gc.ca).

Sick leave without pay is provided for in the Treasury Board Secretariat's (TBS) [\*\*\*Directive on Leave and Special Working Arrangements\*\*\*](#), in conjunction with collective agreement provisions on leave without pay.

### Human Resources Delegation

Action	Degree of Discretion	Human Resources Delegation
Grant up to one year of sick leave without pay	Discretionary	CBSA -5 <sup>1</sup>
Grant over one year but less than two years of sick leave without pay	Discretionary	CBSA -4
Grant over two years of sick leave without pay	Discretionary	CBSA -2

- <sup>1</sup>
- Delegation of Human Resources Authorities: CBSA [\*\*Schedule 2H\*\*](#)
  - [\*\*Collective Agreements\*\*](#)
  - TBS [\*\*Directive on Terms and Conditions of Employment\*\*](#)
  - TBS [\*\*The Fundamentals - Leave Without Pay\*\*](#)
  - [\*\*Leave Articles in Collective Agreements\*\*](#)

### General

Leave without pay may be granted to employees who have exhausted their sick leave credits or injury-on-duty leave. For administrative purposes, such leave is referred to as sick leave without pay (SLWOP) and is to be coded in the leave system as such. In all cases of absences due to prolonged illness or injury, managers must request that this leave be certified, that the employee's file is well documented and that Compensation is advised of all changes to leave reporting.

The duration of leave without pay will vary depending on the employee's circumstances, and should provide for any time required to assess accommodation requests or allow the employee to make the necessary steps to sever employment, if applicable. Managers should consult their Labour Relations (LR) Advisor with any questions in this regard.



## Procedures for Granting and Managing SLWOP

When considering granting sick leave without pay, managers must determine that the employee has exhausted all sick leave credits or injury-on-duty leave, establish that the employee will be returning to work within the foreseeable future, generally within two years from the time of initial illness or injury, and consider whether a return-to-work plan should be developed.

- Once a manager is satisfied that the illness or injury will result in a prolonged absence, he or she must monitor the employee's absence in order to ensure that leave is coded appropriately.
- Where possible, in cases where employees have insufficient sick leave with pay credits for the anticipated duration of the absence, managers are to advise employees of this situation and determine the best course of action: an advance of sick leave credits, SLWOP, or a combination thereof, and confirm in writing the agreed upon course of action.
- If a manager is unable to reach an employee who has insufficient sick leave with pay credits, managers are to advise Compensation within six days of existing leave credits being exhausted that the absent employee is to be put SLWOP; this will ensure that the employee does not find him or herself in an overpayment situation, which will have to be managed when the employee is back at work. An Authorization of Leave without Pay form must be prepared and submitted to compensation.
- In all circumstances, the manager is to notify the employee that he or she will be put on SLWOP.
- The manager is to remain in contact with the employee and regularly review the situation.
- In cases of prolonged absences or when resignation or medical retirement could be a viable option, managers are to consult their LR Advisor and develop a plan of action.
- Managers can refer to the Standard Operational Procedure for Requesting, Recording and Authorizing Leave for additional information.
- Leave without pay can have impacts on an employee's pension, insurance coverage, leave entitlements, etc. Delegated authorities should invite employees to discuss this with their Compensation Advisor, and review Public Works and Government Services Canada's Leave Without Pay Information Package.

## Criteria for Granting SLWOP

As with sick leave with pay, in order to grant SLWOP:

- Employees must satisfy the manager that they are unable to perform their duties due to illness or injury, which in cases of extended illness, must be supported by a medical certificate.
- Employees must have exhausted sick leave credits and/or injury-on-duty leave.

## Requesting a Medical Certificate

An acceptable medical certificate is a letter or note from the employee's medical practitioner. It must, at a minimum, certify the extent to which the employee is unfit for work and the duration of the absence. Where applicable, it should establish any functional limitations the employee has that the employer must respect.

When an employee requests sick leave, a manager may ask that the employee submit a medical certificate from a certified medical practitioner. The most common reasons to request a medical certificate are:

- The sick leave requested is for an extended period of time (in excess of 5 consecutive days).
- The manager has concerns over the amount of sick leave previously used or has observed an existing pattern of sick leave usage (e.g. the majority of sick leave is taken on a recurring day of the week).
- The manager has reason to believe that sick leave was not used for its intended purpose.

If an employee is required to submit a medical certificate, any costs incurred by the employee in obtaining the certificate will not be reimbursed by the CBSA. Managers can consult their HR Advisor for more information.



If a medical certificate is required for one absence only, the employee should be informed prior to returning from the absence that a medical certificate is required to approve the sick leave request. In cases of repeated absences for a recurring illness or injury, a manager can choose to continue to grant sick leave only when each absence is certified by the employee's medical practitioner; such being the case, the manager must inform the employee in writing that until further notice, sick leave requests will not be granted without a medical certificate.

## Managing the Duration of SLWOP

- Any absence for which a manager has granted SLWOP is to be regularly reviewed with the employee in anticipation of his or her return to work.
- Ongoing re-examination ensures that appropriate communication and supports are in place and that the continuation of leave without pay is warranted.
- Generally, such leave without pay situations are to be resolved within two years of the leave commencement date.
- If, with time, both the employee and manager consider that a return to work is not feasible, resignation or medical retirement may be considered. Managers are to consult LR in these circumstances.

## Termination of SLWOP

All sick leave without pay will be terminated by the employee's:

- Return to work;
- Resignation or retirement on medical grounds;
- Cessation of employment pursuant to section 42 of the Public Service Employment Act; or
- Termination for reasons other than breaches of discipline pursuant to the *Financial Administration Act*.

## Monitoring

Managers are expected to monitor employees' usage of sick leave without pay to ensure that it is granted only in accordance with the applicable Terms and Conditions of Employment. In the case of sick leave without pay managers are expected to maintain ongoing communication with employees to effectively re-integrate them once they are fit to return to work or resolve these situations within two years.

The Human Resources Branch will be monitoring leave transactions at the Agency level to determine leave usage impacts on the organization.

Date modified: 2014-05-13  
Reviewed: 2019-11-14

**From:** Desmarais, Robin  
**Sent:** Tuesday, December 8, 2020 3:34 PM  
**To:** Maier, Kent  
**Cc:** Smith, Janis; Gualtieri, Francesca  
**Subject:** FW: Breaks in LWOP periods

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Hi Kent,

Thanks so much for the clarification!

In terms of your request for guidance as to whether the request below should be granted, LRP's response is as follows:

Scenario: An FB employee has been on a three month period of leave without pay for Care of Family that will end on [redacted]. In [redacted] the employee submitted subsequent requests for a day or paid leave to be followed by a second, three month period of the same LWOP. Although the request was initially approved, as the intention of the day of paid leave was to circumvent the double deductions (given that the LWOP will be in excess of three months), Management contacted the employee and advised that the request would be denied on that basis.

In being advised that a period of leave could not be used to break two (2) periods of LWOP in order to avoid contributions at the double rate, the employee then requested to actually return to work for one day and then proceed on the requested LWOP.

Based on our discussion, as I understand there is nothing precluding the authorization of the LWOP for Care of Family (the conditions of the leave have been satisfied – see table below for the relevant article of the collective agreement). At this time the outstanding issue is whether the employee should be permitted to work for one (1) day in order to break the two periods and avoid the double deductions.

From an LRP perspective:

- Periods of leave without pay (LWOP) should be approved in accordance with:
  - Applicable collective agreement provisions; and
  - CBSA's Leave Management and Standard Operating Procedures.
- When commencing an authorized period of leave without pay, an employee can elect to count the period of leave as pensionable service provided the employee pays the required contributions as follows (see table below):
  - Contributions at the single rate (employee contribution only) when the LWOP is for a period of **less than three months**.
  - Contributions at the double rate (both the employee and employer contributions) when the LWOP is for periods of **more than three months**.
- When an employee requests to "break" two (2) periods of LWOP, each request must be considered on a case-by-case basis and it must be determined that the return to work is reasonable.
- To accomplish this, managers need to:
  - Validate that the employee has just finished one period of LWOP and confirm that there is a clear and immediate intention to commence an additional period of LWOP;

- Confirm that the request for leave and/or to return to work is for a brief period prior to commencing the second or subsequent period of LWOP; and
- Confirm the rationale for returning to work for a brief period (i.e. whether it is for the sole purpose of avoiding the contributions at the double rate);
- Based on Agency decision and best practice, employees should not be re-taken on strength for a brief period **where it has been determined that the purpose of doing so is to avoid contributions at the double rate.**
- That is, when the intention to return to work is to simply “break” two (2) periods LWOP to avoid contributions at the double rate, employees who are already on LWOP **should not be re-taken on strength for a brief and/or unreasonable timeframe** (e.g. for one (1) compensated day) when there is a clear and immediate intention to be once again authorized for a subsequent period of LWOP;

In the scenario above, as it is clear that the intention to return to work is solely to avoid contributions at the double rate, the request to return to work for a brief period (prior to immediately commencing a subsequent period of LWOP) is not reasonable and therefore should not be authorized.

With respect to the request for LWOP for Care of the Immediate Family, provided the conditions of the leave have been satisfied, a request to extend the period of this LWOP may be authorized.

I hope this helps! In the meantime, please let me know if you have any questions and/or if you would like any additional information.

Thanks,  
 Robin

**FB Collective Agreement: Article 41: leave without pay for the care of family**

**41.01** Both parties recognize the importance of access to leave for the purpose of the care of family.

**41.02** An employee shall be granted leave without pay for the care of family in accordance with the following conditions:

1. an employee shall notify the Employer in writing as far in advance as possible but not less than four (4) weeks in advance of the commencement date of such leave unless, because of urgent or unforeseeable circumstances, such notice cannot be given;
2. leave granted under this article shall be for a minimum period of three (3) weeks;
3. the total leave granted under this article shall not exceed five (5) years during an employee's total period of employment in the public service;
4. leave granted for a period of one (1) year or less shall be scheduled in a manner which ensures continued service delivery.
5. **Compassionate care leave**
  1. Notwithstanding the definition of “family” found in clause 2.01 and notwithstanding paragraphs 41.02(b) and (d) above, an employee who provides the Employer with proof that he or she is in receipt of or awaiting Employment Insurance (EI) Compassionate Care Benefits may be granted leave for periods of less than three (3) weeks while in receipt of or awaiting these benefits.
  2. Leave granted under this clause may exceed the five (5) year maximum provided in paragraph (c) above only for the periods where the employee provides the Employer with proof that he or she is in receipt of or awaiting Employment Insurance (EI) Compassionate Care Benefits.

3. When notified, an employee who was awaiting benefits must provide the Employer with proof that the request for Employment Insurance (EI) Compassionate Care Benefits has been accepted.
4. When an employee is notified that their request for Employment Insurance (EI) Compassionate Care Benefits has been denied, subparagraphs (i) and (ii) above cease to apply.

**41.03** An employee who has proceeded on leave without pay may change his or her return-to-work date if such change does not result in additional costs to the Employer.

**41.04** All leave granted under Leave Without Pay for the Long-Term Care of a Parent or Leave Without Pay for the Care and Nurturing of Pre-School Age Children provisions of previous Program and Administrative Services collective agreements or other agreements will not count towards the calculation of the maximum amount of time allowed for care of family during an employee's total period of employment in the public service.

**TBS Public service pensionable service: Leave without pay**

During a leave without pay, you can opt to count the period of leave as pensionable service, as long as you make the required contributions and the leave is approved.

Generally, contributions for periods of leave without pay are deducted from your salary when you return to work. Such contributions are deducted in equal installments, over a period equal to twice the period of your absence. You may also choose to pay the whole amount in a lump sum within 30 days of the date of your return to work.

However, if you are on extended leave to serve on loan with another employer or an international organization, you must pay your contributions in advance—annually, semi-annually or quarterly—to the Pension Centre. If your leave falls into any of these categories, consult the Government of Canada Pension Centre about the amounts required and the method of payment.

For a leave of **less than three months, you will contribute at the single rate** (the employee contribution only), and the service will be credited to you.

For periods of **more than three months, you will contribute at the single rate for the first three months and at either the single rate or the double rate** (both the employee and employer-matching contributions) for the balance of the leave, depending on the type of leave.

For these longer periods, you may choose not to contribute after the first three months, in which case the non-contributory service will not be credited to you either for eligibility or pension calculation purposes.

An election not to contribute for leave without pay can only be made during the period beginning three months after the leave begins and ending three months following return to work. If you elect not to contribute, you may elect to buy back that service later, but the cost will differ.

**From:** Maier, Kent <KENT.MAIER@cbsa-asfc.gc.ca>

**Sent:** December 8, 2020 1:01 PM

**To:** Desmarais, Robin <Robin.Desmarais@cbsa-asfc.gc.ca>

**Subject:** RE: Breaks in LWOP periods

Hi Robin,

In speaking with the LR Advisor, Management had already advised the employee that he cannot break two periods of LWOP with one day of A/L, which was the original request. The employee subsequently came back and said that he will return to the workplace instead. We already know that this is in relation to avoid double pension contributions. Although this has not explicitly been articulated, it would be the reason. There is no other email communication to share, as conversations have been verbal with the employee.

The LWOP and one day of A/L had technically already approved by management in November. This was flagged to LR by Compensation and then LR went back to management to clarify that they should not have approved the request and subsequently speak to the employee and indicate why this cannot be done. The employee then began to ask how much paid leave would he have to take between the periods of A/L. We told management that there is no number of days and that if the employee is requesting paid leave solely for the purposes of avoiding double pension

contributions, this should not be approved. This has now all led to the employee wanting to return to the workplace for one day.

I hope this clarifies. Thanks!

Kent Maier

Team Lead, Labour Relations, West Portfolio  
Labour Relations Operations, Labour Relations and Compensation Directorate  
Human Resources Branch, Canada Border Services Agency / Government of Canada  
[kent.maier@cbsa-asfc.gc.ca](mailto:kent.maier@cbsa-asfc.gc.ca) / Tel: 604-775-6772 / TTY: 1-866-335-3237

Chef d'équipe en relations de travail, Portefeuille de l'ouest  
Relations de travail – Opérations, Relations de travail et rémunération  
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Gouvernement du Canada  
[kent.maier@cbsa-asfc.gc.ca](mailto:kent.maier@cbsa-asfc.gc.ca) / Tél. : 604-775-6772 / ATS : 1-866-335-3237

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**From:** Desmarais, Robin <[Robin.Desmarais@cbsa-asfc.gc.ca](mailto:Robin.Desmarais@cbsa-asfc.gc.ca)>

**Sent:** December 8, 2020 6:06 AM

**To:** Maier, Kent <[KENT.MAIER@cbsa-asfc.gc.ca](mailto:KENT.MAIER@cbsa-asfc.gc.ca)>

**Subject:** RE: Breaks in LWOP periods

Good Morning Kent,

So sorry for the delay in getting back to you. I have been speaking with Francesca about this scenario as we are working on a response.

Is it possible to get the employees request and managements response to the request (I'm thinking it might have been by email)? We are looking to confirm the employees rationale for the break in LWOP (i.e. why they want to break the LWOP - did they specifically say to break the period of LWOP) and did management refer to that aspect in their response.

Also, is it fair to assume that the decision regarding the request to break the leave by returning to work has still not been answered?

If you could send that to me as soon as possible I would appreciate it.

Thanks,  
Robin

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**From:** Desmarais, Robin

**Sent:** December 4, 2020 10:28 AM

**To:** Maier, Kent <[KENT.MAIER@cbsa-asfc.gc.ca](mailto:KENT.MAIER@cbsa-asfc.gc.ca)>

**Subject:** RE: Breaks in LWOP periods

I have a call at 11, but if you are free now could you give me a call at (289) 547-5265.

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**From:** Maier, Kent <[KENT.MAIER@cbsa-asfc.gc.ca](mailto:KENT.MAIER@cbsa-asfc.gc.ca)>

**Sent:** December 4, 2020 10:25 AM

**To:** Desmarais, Robin <[Robin.Desmarais@cbsa-asfc.gc.ca](mailto:Robin.Desmarais@cbsa-asfc.gc.ca)>

**Subject:** Re: Breaks in LWOP periods

Hi Robin,

Sure I'm available now for the next 1.5 hours or later. When works for you?

Kent

Sent from my iPhone

On Dec 4, 2020, at 6:44 AM, Desmarais, Robin <[Robin.Desmarais@cbsa-asfc.gc.ca](mailto:Robin.Desmarais@cbsa-asfc.gc.ca)> wrote:

Good Morning Kent,

I hope you are keeping well!

Francesca asked me to look into your scenario and I was wondering if you might have a few minutes for a quick chat, just so that I can be sure I am understanding the scenario correctly.

I have a couple of calls this morning but would have time this afternoon if you have some time?

Thanks,  
Robin

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**From:** Maier, Kent <[KENT.MAIER@cbsa-asfc.gc.ca](mailto:KENT.MAIER@cbsa-asfc.gc.ca)>

**Sent:** December 3, 2020 5:05 PM

**To:** Gualtieri, Francesca <[Francesca.Gualtieri@cbsa-asfc.gc.ca](mailto:Francesca.Gualtieri@cbsa-asfc.gc.ca)>; Smith, Janis <[Janis.Smith@cbsa-asfc.gc.ca](mailto:Janis.Smith@cbsa-asfc.gc.ca)>

**Cc:** CBSA-ASFC\_LRCD\_Interpretation\_DRTR <[LRCD\\_Interpretation\\_DRTR@cbsa-asfc.gc.ca](mailto:LRCD_Interpretation_DRTR@cbsa-asfc.gc.ca)>

**Subject:** RE: Breaks in LWOP periods

Hi Francesca,

Information below. Thanks!

Kent Maier

Team Lead, Labour Relations, West Portfolio  
Labour Relations Operations, Labour Relations and Compensation Directorate  
Human Resources Branch, Canada Border Services Agency / Government of Canada  
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Chef d'équipe en relations de travail, Portefeuille de l'ouest  
Relations de travail – Opérations, Relations de travail et rémunération  
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[kent.maier@cbsa-asfc.gc.ca](mailto:kent.maier@cbsa-asfc.gc.ca) / Tél. : 604-775-6772 / ATS : 1-866-335-3237

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**From:** Gualtieri, Francesca <[Francesca.Gualtieri@cbsa-asfc.gc.ca](mailto:Francesca.Gualtieri@cbsa-asfc.gc.ca)>

**Sent:** December 3, 2020 1:40 PM

**To:** Smith, Janis <[Janis.Smith@cbsa-asfc.gc.ca](mailto:Janis.Smith@cbsa-asfc.gc.ca)>

**Cc:** Maier, Kent <[KENT.MAIER@cbsa-asfc.gc.ca](mailto:KENT.MAIER@cbsa-asfc.gc.ca)>; CBSA-ASFC\_LRCD\_Interpretation\_DRTR <[LRCD\\_Interpretation\\_DRTR@cbsa-asfc.gc.ca](mailto:LRCD_Interpretation_DRTR@cbsa-asfc.gc.ca)>  
**Subject:** Breaks in LWOP periods

Hi Janis,

Can you please provide more information in terms of your specific case, such as the:

- Employee's group; FB
- Employee's employment status (e.g. indeterminate); Indeterminate
- Types LWOPs being requests; and Care of Family LWOP
- Duration of each period of LWOP. Initial period:  
next period requested:

The type of LWOP needs to be administered and approved in accordance with the respective collective agreement provision.

Thanks,

*Francesca Gualtieri*

A/Manager, Labour Relations Program, Human Resources Branch  
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[francesca.gualtieri@cbsa-asfc.gc.ca](mailto:francesca.gualtieri@cbsa-asfc.gc.ca) / Tel: 343-998-1752

Gestionnaire (pi), Programme des relations de travail, Direction générale des ressources humaines  
Agence des services frontaliers du Canada / Gouvernement du Canada  
[francesca.gualtieri@cbsa-asfc.gc.ca](mailto:francesca.gualtieri@cbsa-asfc.gc.ca) / Tél. : 343-998-1752

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**From:** Smith, Janis <[Janis.Smith@cbsa-asfc.gc.ca](mailto:Janis.Smith@cbsa-asfc.gc.ca)>  
**Sent:** December 3, 2020 4:28 PM  
**To:** CBSA-ASFC\_LRCD\_Interpretation\_DRTR <[LRCD\\_Interpretation\\_DRTR@cbsa-asfc.gc.ca](mailto:LRCD_Interpretation_DRTR@cbsa-asfc.gc.ca)>  
**Cc:** Gualtieri, Francesca <[Francesca.Gualtieri@cbsa-asfc.gc.ca](mailto:Francesca.Gualtieri@cbsa-asfc.gc.ca)>; Maier, Kent <[KENT.MAIER@cbsa-asfc.gc.ca](mailto:KENT.MAIER@cbsa-asfc.gc.ca)>  
**Subject:** RE: Breaks in LWOP periods

Hello,

I'm seeking your advice on a case involving breaks in LWOP periods:

An employee requested 1-day leave between two periods of LWOP which has been denied by management. The employee has now indicated they will come into the workplace in order to have a break in the LWOP. Should management be allowing the employee to return to the workplace for each of these scenarios:

- Employee physically returns to work for 1-day between 2 periods of LWOP
- Employee physically returns to work for 1-2 weeks between 2 periods of LWOP

Does the interpretation from TBS address this situation? This is a active scenario so we would appreciate any information as soon as possible.



Also, do you have any additional information on when the national guidelines will be ready? Do they include information for managers and employees?

Thanks,  
Janis Smith

Assistant Director, Workplace Issues Management - West Portfolio  
Human Resources Branch, Canada Border Services Agency / Government of Canada  
[Janis.Smith@cbsa-asfc.gc.ca](mailto:Janis.Smith@cbsa-asfc.gc.ca) / Cell: 12 / TTY: 866-335-3237

Directrice Adjointe, Gestion des enjeux en milieu de travail – Portefeuille de l'ouest  
Direction générale des ressources humaines, Agence des services frontaliers du  
Canada / Gouvernement du Canada  
[Janis.Smith@cbsa-asfc.gc.ca](mailto:Janis.Smith@cbsa-asfc.gc.ca) / Cellulaire: / ATS: 866-335-3237

---

**From:** CBSA-ASFC\_LRCD\_Interpretation\_DRTR <[LRCD\\_Interpretation\\_DRTR@cbsa-asfc.gc.ca](mailto:LRCD_Interpretation_DRTR@cbsa-asfc.gc.ca)>  
**Sent:** November 19, 2020 10:53 AM  
**To:** Brant, Kevin <[Kevin.Brant@cbsa-asfc.gc.ca](mailto:Kevin.Brant@cbsa-asfc.gc.ca)>; Smith, Janis <[Janis.Smith@cbsa-asfc.gc.ca](mailto:Janis.Smith@cbsa-asfc.gc.ca)>  
**Cc:** CBSA-ASFC\_LRCD\_Interpretation\_DRTR <[LRCD\\_Interpretation\\_DRTR@cbsa-asfc.gc.ca](mailto:LRCD_Interpretation_DRTR@cbsa-asfc.gc.ca)>; Gualtieri, Francesca <[Francesca.Gualtieri@cbsa-asfc.gc.ca](mailto:Francesca.Gualtieri@cbsa-asfc.gc.ca)>  
**Subject:** RE: Breaks in LWOP periods

Hi Janis and Kevin

LRP is not in the habit of sharing its TBS exchanges with others.

LRP will be sending out national guidelines on this issue.

*Catherine*

Tel: 343-572-4002

---

**From:** Brant, Kevin <[Kevin.Brant@cbsa-asfc.gc.ca](mailto:Kevin.Brant@cbsa-asfc.gc.ca)>  
**Sent:** November 18, 2020 10:18 AM  
**To:** Smith, Janis <[Janis.Smith@cbsa-asfc.gc.ca](mailto:Janis.Smith@cbsa-asfc.gc.ca)>  
**Cc:** CBSA-ASFC\_LRCD\_Interpretation\_DRTR <[LRCD\\_Interpretation\\_DRTR@cbsa-asfc.gc.ca](mailto:LRCD_Interpretation_DRTR@cbsa-asfc.gc.ca)>  
**Subject:** RE: Breaks in LWOP periods

Good Morning,

Sorry, when I assisted GTA with this, I had consulted with LRP and was informed that the position had been validated with TBS. I did not receive a copy of their exchange with TBS. This will have to come from LRP.

KB

---

**From:** Smith, Janis <[Janis.Smith@cbsa-asfc.gc.ca](mailto:Janis.Smith@cbsa-asfc.gc.ca)>  
**Sent:** November 18, 2020 8:49 AM  
**To:** Brant, Kevin <[Kevin.Brant@cbsa-asfc.gc.ca](mailto:Kevin.Brant@cbsa-asfc.gc.ca)>; CBSA-  
ASFC\_LRCD\_Interpretation\_DRTR <[LRCD\\_Interpretation\\_DRTR@cbsa-asfc.gc.ca](mailto:LRCD_Interpretation_DRTR@cbsa-asfc.gc.ca)>  
**Subject:** RE: Breaks in LWOP periods

Hello,

Further to my email below. Do you have the TBS interpretation we received on this issue?

That would be helpful to have for our file.

Thanks,  
Janis

---

**From:** Smith, Janis  
**Sent:** October 8, 2020 9:51 AM  
**To:** Brant, Kevin <[Kevin.Brant@cbsa-asfc.gc.ca](mailto:Kevin.Brant@cbsa-asfc.gc.ca)>; CBSA-  
ASFC\_LRCD\_Interpretation\_DRTR <[LRCD\\_Interpretation\\_DRTR@cbsa-asfc.gc.ca](mailto:LRCD_Interpretation_DRTR@cbsa-asfc.gc.ca)>  
**Subject:** Breaks in LWOP periods

Good Morning,

Within the LR Ops teams, the issue of employees requesting paid leave between 2 periods of LWOP came up. We realized that in Pac. and Prairie we were not in line with the practice of the other regions and TBS. Therefore, we're looking to send out message to Directors to clarify the position on the way forward. We will also be briefing regional CIU on the change.

Below is the message that we've drafted to send to regional management and I am looking for your feedback and comments.

Kevin – you may remember this issue coming up in GTA as I know you helped them with it.

It would be appreciated if you could provide any comments by EOD Friday October 16<sup>th</sup>.

Thanks,  
Janis

*Hello Directors,*

*In some regions it has been normal practice to allow employee's to split two periods of leave without pay (LWOP) with a day of paid leave. These requests are often made with no intention to return to work and in order to minimize the financial implications of an extended period of LWOP by circumventing the double contributions and benefit deficiencies. This was recently raised by and subsequently discussed nationally within Labour Relations to develop a consistent approach for these types of requests moving forward.*

*It has been determined that, while each request should be considered on its own merits, if the intent behind the single and/or minimal paid leave request is solely to avoid financial implications, then it is not within the spirit of the collective agreement and should not be permitted. This position has been validated by TBS and is being applied nationally.*

*For greater clarity, below are examples of requests that should not be approved:*

*Example 1:*

- *Employee requests LWOP for Care of Family from June 4<sup>th</sup> to September 3<sup>rd</sup>*
- *Employee requests vacation leave on September 4<sup>th</sup>*
- *Employee requests LWOP for Care of Family from September 5<sup>th</sup> to December 4<sup>th</sup>*

*If the vacation leave requested is to ensure their LWOP does not span over 3 months which would result in the employee avoiding potential financial implications as it relates to their pension and benefits, the vacation leave request should be denied.*

*Example 2:*

- *Employee is on 1 year maternity leave/parental leave which expires October 6<sup>th</sup>*
- *Employee requests vacation leave on October 7<sup>th</sup>*
- *Employee requests LWOP for Care of Family for 6 months starting October 8<sup>th</sup>*

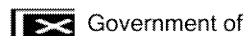
*If the vacation leave requested is to minimize the financial impacts the extended period of LWOP would have, the vacation leave request should be denied.*

*Should you have any questions or wish to discuss further, please contact your LR advisor.*

In addition to the attached, the relevant collective agreements also provide information related to this request. They can be accessed at TBS Collective agreements for the Public Service: <https://www.tbs-sct.gc.ca/agreements-conventions/index-eng.aspx>. The table below lists the collective agreements that are applicable within the CBSA.

<b>Collective Agreement:</b>	<b>Groups:</b>
EB	<b>ED</b> , EU, LS
FB	<b>FB</b>
PA	<b>AS</b> , CM, <b>CR</b> , DA, <b>IS</b> , OE, <b>PM</b> , ST, WP
SV	FR, <b>GL</b> , <b>GS</b> , HP, HS, LI, PR(S), SC
TC	DD, <b>EG</b> , <b>GT</b> , PI, PY, TI
<b>AV</b>	<b>AU</b> , <b>CO</b> , <b>PG</b>
CS	CS
NR	<b>AR</b> , <b>EN</b>
RE	<b>DS</b> , <b>HR</b> , <b>MA</b> , <b>SE</b>
SP	AC, AG, BI, <b>CH</b> , FO, MT, <b>PC</b> , <b>SG</b>
FI	<b>FI</b>
FS	<b>FS</b>
EC	<b>EC</b>
EL	<b>EL</b>

Français



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## Leave without pay information package

Changes were made to the public service pension plan effective January 1, 2013. For more information on the changes to the pension plan, visit the [Information concerning changes to the public sector pension plans](#) page of the Treasury Board of Canada Secretariat website or contact the Government of Canada Pension Centre.

We appreciate your patience while we gradually update all of our videos, publications and

websites to reflect these changes.

This package provides you with important information needed when considering taking a leave of absence from the federal public service and explains the pension implications of taking a period of leave without pay (LWOP) and the processes involved.

Your employer may authorize pensionable LWOP for various reasons. To determine what types of LWOP may be available to you, you should review your collective agreement and/or contact your Human Resources office. You may also find a list of the various types of LWOP under [Types of leave without pay and contribution rates](#) at the end of this document. If you wish to proceed on LWOP, you should then discuss the approval process with your manager. In addition, we suggest that you notify your compensation advisor of your intention of leaving, in advance of proceeding on LWOP, to avoid any overpayment situations. To update your LWOP records, you should also contact your compensation advisor if you are on LWOP and are then approved for a new type of LWOP.

Information regarding the impact LWOP has on your pay, benefits and group insurances can be obtained from your compensation advisor.

Contact the [Pension Centre](#) for any information regarding the effect LWOP has on your pension and your Supplementary Death Benefit (SDB) plan.

## Things to consider when taking a period of leave without pay

Explore these sections to learn more about the impact LWOP has on your pension and SDB:

- [Pensionable leave without pay](#)
- [Choosing to count your leave without pay as pensionable service](#)
- [Choosing not to count your leave without pay as pensionable service](#)
- [Payment options for pensionable leave without pay contributions](#)
- [Tax implications surrounding a period of leave without pay](#)
- [Seasonal layoff](#)
- [On loan leave without pay](#)
- [Leave with income averaging](#)
- [Pre-retirement transition leave](#)
- [Dual employment—Employment while on leave without pay](#)
- [Making service buyback payments while on leave without pay](#)
- [Types of leave without pay and contribution rates](#)
- [Required documents](#)

## The administrative process

Once you have decided that you wish to proceed on LWOP, you must seek approval from your manager. Your compensation advisor must then be notified that you will be leaving. It is preferable to inform your compensation advisor in advance to avoid overpayment situations.

Once you have reviewed the information in this package and decide to take a leave of absence, you may consult the Pension Centre for any additional information regarding the impact LWOP has on your pension and Supplementary Death Benefit.

- Required documents
- Client concern escalation process

## Pensionable leave without pay

The public service pension plan allows you to earn pension credits during periods of employer-approved LWOP, allowing you to maintain the full value of your pension. Certain types of LWOP, however, cannot be considered pensionable such as suspension, strike, seasonal layoff and unauthorized leave of absences.

Please note that there is a limit on the number of years you can count as pensionable LWOP service under the public service pension plan. For more information, refer to the Tax implications surrounding a period of leave without pay section in this document.

If you have not already reached the pensionable LWOP limit, the first three months of any employer-approved LWOP is pensionable, meaning that the period of service counts in the calculation of your public service pension. After the first three months, you have the option to count or not to count your LWOP period as pensionable.

## Choosing to count your leave without pay as pensionable service

If you do not sign an option not to count your LWOP within the prescribed time, you are deemed to have chosen to count your period of LWOP beyond the first three months as pensionable service. You will therefore owe pension contributions for your entire period of LWOP.

Since you also remain covered under the SDB plan during your period of LWOP, SDB contributions are owed for the entire period.

Pension and SDB contributions owing for a period of LWOP are based on deemed salaries and pensionable allowances (salaries and allowances you would have received had you not been on LWOP). These include pay revisions (including retroactive revisions) and pay increments that may become due after the commencement of your LWOP.

## Choosing not to count your leave without pay as pensionable service

As indicated above, the first three months of your LWOP period are always counted as pensionable service. If you choose not to count your period of LWOP in excess of the first three months as pensionable service, you have to complete the Election not to Count Leave Without Pay as Pensionable Service (PWGSC-TPSGC 2480) form. You have to forward the

completed form to the Pension Centre no later than three months following your return to work (in the case of rehabilitation leave, no later than three months after returning to your regular scheduled hours of work). Once your election has been made, your LWOP in excess of the first three months will not be counted as pensionable service and accordingly, you will not be required to pay pension contributions for the period of LWOP other than for the first three months. However, since you remain covered under the Supplementary Death Benefit (SDB) plan during your period of LWOP, SDB contributions are owed for the entire period of LWOP.

It should be noted that an option not to count LWOP as pensionable service cannot be made after an employee has terminated employment. The option has to be made while the employee is still actively at work or on LWOP.

As well, the option not to count can only be made for the full period of LWOP in excess of the first three months. You cannot choose to count only a portion of the period of LWOP in excess of the first three months as pensionable service and the remaining balance as non-pensionable service.

Please inform your compensation advisor if you are actively employed in the public service while you are on LWOP. This is referred to as a dual employment situation (that is, you are working in a term position, of 12 or more hours a week, while on LWOP from your substantive position). If you are in this situation, at the end of every term position you will have the option not to count the LWOP in excess of the first three months as pensionable service by completing the Election not to count leave without pay as pensionable service (PWGSC-TPSGC 2480) form. A new form is required at the end of each term position. Refer to the Dual employment—Employment while on leave without pay section.

Remember, if you do not exercise your option within three months following your return to work, you will be deemed to have chosen to count the period in excess of the first three months as pensionable service and contributions will be required for your entire period of LWOP.

An election not to count a LWOP period is irrevocable. You cannot later count that period of service unless you sign a Service buyback form (PWGSC-TPSGC 3006) (This site is only accessible to federal government employees, and only to federal departments and agencies) to count the service as pensionable under the public service pension plan. Contributions, however, would be based on your salary at the date of signing the service buyback form and a medical examination would need to be undergone and passed. This option would be more costly since interest is charged on service buybacks. More information is available in the Service buyback package or from the Pension Centre.

## Payment options for pensionable leave without pay contributions

Generally, you are not required to pay your LWOP pension contributions and SDB contributions prior to, or during your period of leave. However, payments will be required upon your return to work. At that time, you will receive a letter from the Pension Centre outlining the amount owing and the deadline by which contributions have to be paid. The following payment options are available to you:



## Lump sum payment: (within 30 days of return to work)

- By personal cheque, postal or bank money order payable to the Receiver General for Canada. Send your payment, together with a Payment Transmittal Form (PWGSC-TPSGC 570) (This site is only accessible to federal government employees, and only to federal departments and agencies), to the address indicated on the transmittal form.

Note 1: When sending a lump sum payment you must provide details on the payment by stating if it is for SDB contributions, provincial sales tax on SDB contributions for Quebec and Ontario residents, pension contributions or a service buyback payment.

Note 2: The receipt issued from the Pension Centre will be your tax receipt. Include it with your tax return to claim the deduction of pension contributions to a registered pension plan. Please note that SDB contributions are not tax deductible.

- By direct transfer of funds from your RRSP to the public service pension plan; using the Canada Revenue Agency Direct Transfer under subsection 146.3(14.1) or paragraph 146(16)(a) or 146.3(2)(e) (T2033) form. Send your completed T2033, together with a 'Payment Transmittal Form' (PWGSC-TPSGC 570), to the address indicated on the transmittal form.

Note 1: The direct transfer of funds option is for pension deficiencies only as SDB deficiencies and pension contributions owing to the Retirement compensation arrangements (RCA) account cannot be paid by transferring RRSP's.

## Salary or pension deductions:

- By deduction from your salary or pension over a period equal to twice the period of the pensionable LWOP. If you choose this payment option, you can, at any time during the recovery period, make a payment for all, or part of the balance of deficiencies owing.

Note 1: Once your deductions have started, if you make a lump sum payment for part or all of the deficiencies owing, you would be advised in writing of any changes to your payment plan.

If you wish, you may pay your LWOP pension and SDB contributions during your period of LWOP. Contact the Pension Centre for more information.

These options are not applicable for on loan leave without pay as pension and SDB deficiencies must be paid in advance. For on loan LWOP situations, an estimate of the contributions owing as well as the related payment options, will be provided by the Pension Centre.

## Tax implications surrounding a period of leave without pay

### Income tax limit

The Income Tax Act places certain limits on the maximum period of LWOP which can be counted as pensionable service under a Registered Pension Plan. The maximum LWOP permitted is five cumulative years of LWOP (excluding certain types of LWOP), plus up to three years of child

care leave, for a total of eight years of LWOP. The child care leave is limited to a maximum of one year per child which must be taken within one year of the date of birth or adoption of each child. Exceptions to these limits include periods of LWOP due to illness and leave where the member is "on loan". For part-time employees, the period of part-time LWOP must be converted to a full-time equivalent LWOP period when calculating the maximum period of pensionable LWOP.

Once you have reached the *Income Tax Act* limit, you may still proceed on LWOP, however, all additional periods of LWOP are non-pensionable and no pension contributions will be required beyond the pensionable LWOP limit. As indicated earlier in this document, SDB contributions are always required for the full period of LWOP since you remain covered under the SDB plan. The Pension Centre will notify plan members in writing when they reach the *Income Tax Act* limit.

## Pension adjustment

A pension adjustment is a plan member's total pension credits, that is, the value of the plan member's pension for a given year, and is used by the Canada Revenue Agency (CRA) to determine the amount that you can deposit tax free to a Registered Retirement Savings Plan (RRSP) each year. The pension adjustment reduces the maximum amount that an individual can deduct for (RRSP) contributions for the next year. The annual Notice of Assessment issued by CRA indicates your available RRSP room for the year.

A pension adjustment is calculated and reported to CRA for all pensionable LWOP periods. Depending on when you make your choice not to count your period of LWOP beyond the first three months as pensionable service, a pension adjustment may be reported for your non-pensionable LWOP periods. It is therefore important that, if you intend not to count your LWOP, you sign your option not to count your LWOP at the time you proceed on LWOP to avoid any pension adjustments being reported for that service. CRA does not allow the reversal or amendment of any pension adjustment reported in a LWOP situation.

A pension adjustment will not be reported to CRA for LWOP periods that occur after the plan member has exceeded the maximum tax limit for pensionable LWOP.

## Seasonal layoff

Please note that a period of seasonal layoff is considered a non-pensionable period of LWOP and as such does not count in the calculation of your pension. Therefore, no pension contributions are required for a period of seasonal layoff. However, since you remain covered under the SDB plan for the entire period of LWOP, including the period of seasonal layoff, SDB contributions are required for the full period of your leave and will be recovered in a lump sum upon return to duty.

## On loan leave without pay

A period of LWOP is considered "on loan" only where there is an official agreement between the employers for the loan of the member from the public service to the outside employer. Generally, members who proceed on LWOP for on loan purposes will be required to pay pension and SDB

contributions in advance. If, however, you are obligated to contribute to the outside employer's pension plan, coordination of contributions will be required between the two pension plans. An estimate of the deficiencies owing along with your payment options will be provided to you by the Pension Centre.

## Leave with income averaging

Leave with income averaging allows eligible employees to reduce the number of weeks worked in a specific 12-month period by taking leave without pay for a minimum period of 5 weeks up to a maximum period of 3 months. The employee's pay is reduced and averaged out over the 12-month period to reflect the reduced time at work.

Since this type of LWOP cannot exceed three months, the full period of leave is pensionable. Pension and SDB contributions are deducted on an ongoing basis from your reduced salary.

Please note that this type of leave is not available in all organizations subject to the public service pension plan.

## Pre-retirement transition leave

Pre-retirement transition leave is a special working arrangement whereby eligible employees who are within two years of retirement and who agree to resign/retire effective at the end of the leave arrangement, may have their workweek reduced by up to 40 percent. For full-time employees, this represents up to two out of five working days.

Please note that this type of leave is not available in all organizations subject to the public service pension plan.

To apply for this leave you must submit an application to your manager for approval along with proof of your earliest date of retirement with an unreduced pension as indicated on your Pension and Insurance Benefits Statement. If required, the Pension Centre can also be contacted. As you are nearing retirement when applying for pre-retirement transition leave, you should contact the Pension Centre for retirement pension information, if you have not already done so.

## Dual employment—Employment while on leave without pay

Should you become employed in a term position in the federal public service during your period of LWOP, you will be considered to be in a dual employment situation. If this occurs, you should notify both your employers as this could affect your benefits. In a dual employment situation, you may be required to pay pension and SDB contributions for your term employment while on LWOP from your first or substantive position. This is so, even if you are hired for a term position where you would not normally be required to contribute (for example, term of less than three or six months or on a casual basis).

Deductions for payment of pension and SDB deficiencies for periods of LWOP (exclusive of periods of dual employment) cannot be recovered until your return to duty or if you are

appointed to an indeterminate position. If you are appointed to a new indeterminate position, you must notify your employer who has approved your original LWOP.

The first three-month period of LWOP following each period of term employment must be counted as pensionable service. If you decide not to count each period of LWOP in excess of the first three months as pensionable service, you must complete a new Election not to count leave without pay as pensionable service (PWGSC-TPSGC 2480) form for each period. Once you have made your options, each period of LWOP in excess of the first three months will not be counted as pensionable service towards your pension.

If you do not exercise your option within the prescribed time, you will be deemed to have chosen to count all periods in excess of the first three months as pensionable service and contributions will be required for all periods of LWOP.

## Making service buyback payments while on leave without pay

Unlike current pension contributions, payments for a service buyback must be made on an ongoing basis during a period of LWOP. If you fail to make the monthly service buyback payments, those payments will be in default and additional interest will be charged.

Your monthly payments should be made payable to the Receiver General for Canada. Please send your payment, together with a Payment Transmittal Form (PWGSC-TPSGC 570), to the Pension Centre at the address indicated on the form.

**Note 1:** The receipt issued from the Pension Centre will be your tax receipt. Include it with your tax return to claim the deduction of pension contributions to a registered pension plan. Please note that SDB contributions are not tax deductible.

**Note 2:** When sending a lump sum payment you must provide details on the payment by stating if it is for SDB contributions, provincial sales tax on SDB contributions (Quebec and Ontario residents), pension contributions or a service buyback payment.

## Types of leave without pay and contribution rates

The following chart illustrates the pension contribution rates applicable to various types of pensionable LWOP. Be aware that some organizations may not offer all types of LWOP.

Note that certain types of LWOP are not pensionable (not listed in the chart) and contributions will not be required. The pension contributions can either be calculated at a single or double rate. Where the rate is single, you will be required to pay your share of contributions only, that is, the contributions that you would have paid had you not been on LWOP. Where the rate is double, you will have to pay both your share and the employer's share of contributions.

Contributions for the first three months of LWOP are calculated at single rate. The rate of contributions for the period exceeding the first three months is based on the type of LWOP.

Please note that the rates of contributions for the first three months of LWOP as indicated in the chart below may not apply in certain situations where multiple continuous periods or types of

LWOP are taken.

Table summary The following chart illustrates the pension contribution rates applicable to various types of pensionable leave without pay. Be aware that some organizations may not offer all types of leave without pay.

Type of leave without pay	Rates of contributions	
	First three months	After first three months
Adoption leave (within 52 weeks of adoption)	Single	Single
Care of immediate family, other than for taking care of a child within 52 weeks of birth or adoption	Single	Double
Care of immediate family, child only within 52 weeks of birth or adoption	Single	Single
Federal Royal Commission, Board or Agency outside the Public Service	Single	Single
Full-time paid official of union	Single	Double
Full-time paid official of a credit union	Single	Double
Illness and disability	Single	Single
Leave for personal needs (not to exceed three months)	Single	N/A
Leave with income averaging	Single	N/A
LWOP for the Long-Term care of a parent	Single	Double
Maternity leave	Single	Single
Off-duty status	Single	Double
On loan to an International Organization (not to advantage of the department)	Single	Double
On loan to any Organization, Government, etc. to the advantage of the department (except unions or credit unions)	Single	Single
On loan to a Government of a country other than Canada, not at the request of the Government or to the advantage of the department	Single	Double
Other reasons for LWOP (not covered by a code)	Single	Double
Parental LWOP (within 52 weeks of birth or adoption)	Single	Single
Parental LWOP (beyond 52 weeks of birth or adoption)	Single	Double

Relocation of spouse	Single	Double
Self-funded leave	Single	Double
Serving in the Canadian Armed Forces (non-contributor to CFSA)	Single	Single
Undergoing training or instruction including educational leave	Single	Single
Unpaid surplus status (12 months)	Single	Double

## Required documents

A copy of your child's Birth/Baptismal Certificate or Adoption Certificate should be provided to the Pension Centre for the following types of LWOP:

- Maternity leave
- Parental leave
- Adoption leave

Please contact the Pension Centre if you have any questions regarding the required documents.

Date modified:

2020-12-16

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Symbol of the Government of

# Directive on Leave and Special Working Arrangements

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## 1. Effective date

1.1 This directive takes effect on April 1, 2009.

1.2 It replaces the *Leave Without Pay Policy* dated December 17, 1981.

## 2. Application

2.1 This directive applies to persons appointed to the core public administration as defined in section 11 of the *Financial Administration Act* unless excluded through specific acts, regulations or Orders in Council.

## 3. Context

3.1 This directive supports the *Policy on Terms and Conditions of Employment* by providing direction to departments that will ensure the equitable, accurate, consistent, transparent and timely administration of leave provisions and special working arrangements across the core public administration.

For the purposes of this directive, persons appointed to the core public administration include persons appointed to a position as:

- an indeterminate;
- a term of three months or more;
- a term of less than three months;
- a casual worker;
- an as and when required basis;
- a seasonal worker;
- an excluded employee;
- in an unrepresented group;
- part-time; or
- a part-time worker

3.2 Persons appointed to the core public administration may be granted leave in accordance with the provisions of the relevant collective agreement or terms and conditions of employment. Where there is conflict or incompatibility between a provision of the collective agreement and the Treasury Board terms and conditions of employment policy instruments, the provisions of the collective agreement apply.

3.3 This directive is issued pursuant to sections 7 and 11.1 of the Financial Administration Act.

3.4 The Treasury Board has delegated to the president of the Treasury Board the authority to amend this directive.

3.5 The following appendices establish criteria to be followed with respect to the management of certain authorized paid and unpaid absences from work:

- Appendix A – Leave with Pay or Time Off With Pay
- Appendix B – Leave Without Pay

3.6 Persons appointed to the core public administration may participate in special working arrangements in accordance with this directive under the pre-retirement transition leave and leave with income averaging special working arrangements. The following appendices establish criteria under which these working arrangements may be established:

- Appendix C – Pre-Retirement Transition Leave: A Special Working Arrangement
- Appendix D – Leave with Income Averaging: A Special Working Arrangement

3.7 This directive is to be read in conjunction with the following:

- collective agreements
- Public Service Employment Act
- Policy on Terms and Conditions of Employment
- Directive on Terms and Conditions of Employment
- relevant policies and directives on terms and conditions of employment that are specific to certain groups.

## 4. Definitions

### **core public administration (*administration publique centrale*)**

Refers to departments named in Schedule I and the other portions of the federal public administration named in Schedule IV of the Financial Administration Act.

### **leave with pay (*congé payé*)**



Is an authorized paid absence from work in accordance with the relevant collective agreement or terms and conditions of employment.

**leave without pay (*congé non payé*)**

Is an authorized unpaid absence from work, in accordance with the relevant collective agreement or terms and conditions of employment, while maintaining continuity of employment.

**leave with income averaging (*congé avec étalement du revenu*)**

Is an authorized working arrangement whereby eligible persons are able to reduce the number of weeks worked in a specific 12-month period by taking leave without pay for a period of between 5 weeks and 3 months. Although pay is reduced and averaged out over the 12-month period, pension and benefits coverage (as well as the applicable premiums and contributions) continue at the pre-arrangement levels.

**person with the delegated authority (*personne ayant le pouvoir délégué*)**

Is a person identified under the departmental delegation of authorities instrument for the administration of leave.

**political activity (*activité politique*)**

Has the same meaning as established under Part 7 of the Public Service Employment Act for the purpose of this directive.

**pre-retirement transition leave (*congé de transition préalable à la retraite*)**

Is an authorized working arrangement whereby eligible persons who are eligible for an unreduced pension or are within two years of becoming eligible for an unreduced pension are able to reduce the length of their workweek by up to 40 per cent. The person's salary is reduced while the pension and benefits coverage (as well as the applicable premiums and contributions) are maintained at pre-arrangement levels.

**public service (*fonction publique*)**

Has the meaning given to that expression in the Public Service Superannuation Act.

**special working arrangements (*modalités de travail spéciales*)**

Is, for the purpose of this directive, pre-retirement transition leave and leave with income averaging.

**time off with pay (*temps libre payé*)**

Is, for the purpose of this directive, a paid absence from work (for a short duration as defined in Appendix A of this directive) for one of the three following reasons: time off for

voting; time off owing to adverse climatic or environmental conditions; and time off for personal medical and dental appointments.

## 5. Directive statement

### 5.1 Objective

The objective of this directive is to ensure that departments within the core public administration manage paid and unpaid absences from work and special working arrangements in a sound, consistent and effective manner.

### 5.2 Expected results

The expected results of this directive are that:

- persons appointed to the core public administration are accorded leave benefits in accordance with their relevant collective agreement or terms and conditions of employment; and
- absences from work and special working arrangements are administered and managed in an accurate, equitable, transparent and timely manner.

## 6. Requirements

### 6.1 Senior departmental human resources officials or any other person named by the deputy head are responsible for the following:

- ensuring that systems, processes or procedures are in place to track leave without pay for other reasons, as detailed in Appendix B, in cases where the reason for such leave is for political activity as defined in Part 7 of the *Public Service Employment Act*;
- ensuring that the organizational structure, resources, procedures, systems and controls are in place for the secure, accurate and timely application and administration, within their organization, of all types of leave and special working arrangements as detailed in appendices A, B, C and D;
- initiating, in a timely manner, appropriate pay or other administrative actions related to authorized leave and special working arrangements;

- ensuring that human resources advisors provide accurate and timely direction to persons appointed to the core public administration on all matters pertaining to leave with or without pay, including cases where the leave of absence involves political activity or leave of absence priority entitlements, pursuant to the Public Service Employment Act or Public Service Employment Regulations; and
- ensuring that requests for permission to seek nomination as or be a candidate in an election and leave of absence (see Appendix B), if applicable, pursuant to the Public Service Employment Act, are referred to the Public Service Commission.

## 6.2 Persons with the delegated authority to approve leave are responsible for:

- seeking advice and direction from human resources advisors in cases of leave without pay due to illness and in any cases where political activity pursuant to the Public Service Employment Act is involved;
- ensuring that all applications for discretionary leave and special working arrangements are approved or not approved in a fair, consistent and transparent manner;
- ensuring that requests for leave are only approved in accordance with the applicable authority, in other words, the relevant collective agreement or terms and conditions of employment;
- ensuring that appropriate approval of requests for time off work or to participate in special working arrangements, such as pre-retirement transition leave and leave with income averaging, are considered and, if appropriate, approved in accordance with this directive;
- considering all operational factors before approving leave or special working arrangements;
- directing persons to the appropriate sources of information and, when necessary, to the departmental compensation organization before approving leave or special working arrangements that have an effect on the person's pay or benefits; and
- providing, in a timely manner, the departmental compensation organization with approved applications to process leave without pay or special working arrangements.

## 6.3 Monitoring and reporting requirements

### 6.3.1 Within departments

Senior departmental human resources officials or any other person named by the deputy head are responsible for monitoring adherence to this directive within their organization, consistent with Section 6.2 of the Policy on Terms and Conditions of Employment by:

- establishing and reviewing on an ongoing basis, processes, procedures and controls to ensure that the management of leave set out in this directive is administered in accordance with the appropriate authorities are timely and accurate and that corrective measures are implemented in a timely manner; and
- reviewing, as required, the organizations' management of cases of leave without pay due to illness (as detailed in appendix B).

### 6.3.2 By departments

Departments may be required by the Treasury Board Secretariat (TBS) to provide certain types of information considered necessary for assessing compliance and evaluating management practices.

On the basis of monitoring and information provided, the Secretary of the Treasury Board may require additional reports and information from the department.

### 6.3.3 Government-wide

TBS will review this directive and its effectiveness at the five-year mark of implementation. Where substantiated by risk-analysis, TBS will also ensure an evaluation is conducted.

## 7. Consequences

7.1 In case of non-compliance, deputy heads are responsible for taking corrective measures within their organization with those who are identified with delegated authority pertaining to this directive. Corrective measures can range from training, to the suspension or removal of delegated authority to, taking disciplinary action, or any combination of these measures.

7.2 Departments are required to pay any costs associated with errors or inappropriate administration of leave from their existing departmental budgets.

## 8. Roles and responsibilities of government organizations

### 8.1 Public Service Commission

In addition to the roles and responsibilities of other government organizations described in Section 8 of the *Policy on Terms and Conditions of Employment*, the Public Service Commission has a specific role with respect to the administration of certain types of leave.

It provides direction to departmental human resources organizations with respect to political activity, leave of absence priority entitlements pursuant to the *Public Service Employment Act* and disabled employee priority entitlements pursuant to the *Public Service Employment Regulations*. The Public Service Commission monitors departmental performance regarding these matters.

## 9. References

### 9.1 Other relevant legislation/regulations

- *Public Service Employment Act*
- *Financial Administration Act*
- *Public Service Labour Relations Act*
- *National Defence Act* and related regulations
- *Public Service Superannuation Act*
- *Supplementary Retirement Benefits Act*
- *Income Tax Act*
- *Income Tax Regulations*
- *Canada Elections Act*

### 9.2 Related policy instruments/publications

- *Values and Ethics Code for the Public Sector*

## 10. Enquiries

Please direct enquiries about this directive to your departmental headquarters. For interpretation of this directive, departmental headquarters should contact:

Core Public Administration Compensation Management  
Compensation and Labour Relations  
Office of the Chief Human Resources Officer  
Treasury Board of Canada Secretariat

E-mail: [Interpretations@tbs-sct.gc.ca](mailto:Interpretations@tbs-sct.gc.ca)

## **Appendix A—Leave with Pay or Time off Work with Pay**

### **1. Management of leave with pay or time off work with pay**

Upon application from persons appointed to the core public administration, persons with the delegated authority may approve leave with pay in accordance with the relevant collective agreement or terms and conditions of employment. Time off work may be granted in accordance with the provisions set out in this Appendix.

1.1 Persons with the delegated authority who approve leave or grant time off work with pay have the right to schedule such absences in a manner that takes into account operational requirements. All absences from work must be authorized by the person with the delegated authority to approve the specific absence.

### **2. Management of specific leave with pay or time off work with pay situations**

2.1 This Appendix establishes criteria that are to be followed when the employer allows for paid leave or paid time off work when such absences are occasioned by legal or societal obligations or are deemed by the employer to be situations when persons appointed to the core public administration should not suffer loss of income. The criteria are as follows:

#### **2.2 Paid time off work**

##### **2.2.1 Time off for voting**

All persons appointed to the core public administration, including casual workers and terms less than three months, must be given time off with pay to vote (including proxy voting) in federal, provincial, territorial and municipal elections, referenda or plebiscites. The requirements are as follows:

**Federal elections, referenda or plebiscites**

- Three consecutive hours during the period the polls are open.

**Provincial or territorial elections, referenda or plebiscites**

- The number of consecutive hours specified in the legislation of the province or territory in which the person resides.

**Municipal elections, referenda or plebiscites**

- The number of consecutive hours specified in the statutes governing municipal elections, referenda or plebiscites of the province or territory in which the municipality is located; when there is no such provision, the time is that established for elections in the province or territory in which the person resides.

**2.2.2 Time off due to adverse climatic or environmental conditions**

Persons with the delegated authority exercise their discretionary power to grant time off with pay only if satisfied that the adverse climatic or environmental conditions affect a person's capability to remain on or report for duty.

Adverse environmental conditions at the work place, such as a lack of heat, and emergency conditions affecting the community, such as a serious flood or snowstorm, are examples of conditions that could warrant management to exercise discretion with respect to granting time off with pay.

**2.2.3 Time off for personal medical and dental appointments**

In the core public administration, it is the practice for the employer to grant paid time off, for up to half a day, for persons to attend their own personal medical and dental appointments without charge to their leave credits in cases of routine, periodic check-ups. When a series of continuing medical or dental appointments are necessary for treatment of a particular condition, persons with the delegated authority ensure that absences are to be charged to the person's sick leave credits.

**2.3 Leave with pay****2.3.1 Religious observance**

Persons with the delegated authority to approve leave should examine, on an individual basis, each request for leave to meet religious obligations. When approving leave for reasons of religious observance, persons with the delegated authority ensure, whenever operationally feasible, that appropriate arrangements

are made for make-up time, such as the use of vacation or compensatory leave, shift exchanges in the case of shift workers, variable hours of work or individual arrangements to make up time.

### 2.3.2 Recreational, personal and other special reasons

When granting leave for participating in departmental social activities or similar purposes, persons with the delegated authority ensure that leave is to be charged against a person's vacation leave credits. In the event of a relatively brief leave period, such as extended lunch hours, hours of work may be scheduled to maintain the normal overall weekly hours of work.

### 2.3.3 Participation in international sporting events

A person appointed to the core public administration may be granted by the person with the delegated authority leave with pay for other reasons for the purpose of training for or participating in international sporting events. The leave period must not exceed three calendar months per year, if it is taken in one period, or 66 working days per year if it is taken in broken periods (these amounts include any earned but unused vacation leave credits to which the person is entitled). Training or participation by a person includes involvement as an athlete, an official referee, a judge, a coach or other official.

Leave with pay for other reasons may be granted by the person with the delegated authority under the following conditions:

- a. there must be a recommendation, on behalf of the person, from a national sport-government body and the recommendation for participation must be validated by the appropriate government sport organization, such as Sport Canada; and
- b. the person's unused vacation leave credits must be liquidated before the additional sporting event leave for other reasons is granted.

### 2.3.4 Serve in the Canadian Forces Reserve

Persons appointed to the core public administration may be granted leave with pay for other reasons for the purpose of serving in the Canadian Forces Reserve. Persons with the delegated authority to approve such leave are encouraged to grant leave of absences for this purpose. Such leave is to conform to the provisions of the Reserve Forces Training Leave Regulations made pursuant to the National Defence Act.



## Appendix B—Leave Without Pay

### 1. Management of leave without pay

1.1 Upon application from persons appointed to the core public administration, persons with the delegated authority may approve leave without pay in accordance with the relevant collective agreement or terms and conditions of employment.

1.2 Persons with the delegated authority are to ensure that persons appointed to the core public administration who apply for leave without pay for other reasons not covered under the relevant collective agreement or terms and conditions of employment clearly identify, in their application, the reason for the absence, such as to accept employment in the office of a minister, a minister of State, a secretary of State, or member of Parliament or to participate in political activity.

**Note:**

Heads of human resources must ensure that systems or procedures are in place to track the reason for leave without pay, particularly in cases involving political activity as defined in Part 7 of the *Public Service Employment Act* in order to provide the Public Service Commission with data for monitoring purposes.

1.3 Compensation advisors are to inform persons who have been granted leave without pay of the implications that such leave will have on their pay and benefits, such as various insurance plans, leave entitlements, severance pay entitlements and contributions under the *Public Service Superannuation Act* as well as all entitlements and voluntary deductions.

1.4 With the exception of persons on leave without pay to serve in the Canadian Forces Reserve, identified in Section 2.5. in this Appendix, a person appointed to the core public administration on leave without pay can only be replaced on an indeterminate basis if the period of leave or consecutive periods of the same type of leave exceeds one year. Periods of different types of leave cannot be combined for the calculation of the one year period. If the person is replaced, the person with the delegated authority is to make every effort to provide suitable employment for the person following the leave of absence.

**Note:**

When a person on a leave of absence has been replaced on an indeterminate basis and the person with the delegated authority is unable to provide suitable employment following the leave of absence, the departmental human resources advisor is to be consulted, by the person with the delegated authority regarding leave of absence priorities pursuant to the Public Service Employment Act.

When a person ceases to be an employee pursuant to the Public Service Employment Act, there is no entitlement to severance pay. If, however, persons resign or retire before the date on which their employment would have been terminated, they may be eligible to receive severance pay in accordance with the provisions of the relevant collective agreement.

## 2. Management of Specific Leave without Pay Situations

2.1 This Appendix establishes criteria that are to be followed by departments in the following leave without pay situations:

- illness;
- injury in the workplace;
- to accept employment in the office of a minister, a minister of State, a secretary of State; or a member of Parliament;
- to seek nomination as or be a candidate in a federal, provincial, territorial or municipal election as stipulated under Part 7 of the *Public Service Employment Act*;
- to serve in the Canadian Forces Reserves.

### 2.2 Illness or injury in the workplace

When a person appointed to the core public administration is unable to work due to illness or injury in the workplace and has exhausted his or her sick leave credits or injury-on-duty leave, the person with the delegated authority is to consider granting leave without pay.

For administrative and benefits purposes only, this type of leave without pay is referred to as sick leave without pay and is recorded as such.

If it is clear that a person will not be able to return to work within the foreseeable future, the person with the delegated authority is to consider granting such leave without pay for a period sufficient to enable the person to make the necessary personal adjustments and preparations for separation from the core public administration on medical grounds.

When a person with the delegated authority is satisfied that there is a good chance a person will be able to return to work within a reasonable period of time (the length of which will vary according to the circumstances of the case), leave without pay provides an option to bridge the employment gap. The period of leave without pay is to be flexible enough to allow person with the delegated authority to accommodate the needs of a person with special recovery problems, including retraining.

Persons with the delegated authority are to regularly re-examine all cases of leave without pay due to illness or injury in the workplace to ensure that continuation of leave without pay is warranted by current medical evidence. Such leave without pay situations are to be resolved within two years of the leave commencement date, although each case must be evaluated on the basis of its particular circumstances.

All leave without pay due to illness or injury in the workplace will be terminated by the person's:

- return to work;
- resignation or retirement on medical grounds;
- cessation of employment pursuant to section 42 of the Public Service Employment Act; or
- termination for reasons other than breaches of discipline pursuant to the Financial Administration Act.

#### 2.2.1 Disabled persons—return to work

Persons with the delegated authority are to consult their departmental human resources advisors when persons have been certified by a competent authority as ready to return to work but are no longer able to carry out the duties of their position. Human resources advisors will provide direction with respect to disabled employee priority entitlements pursuant to the Public Service Employment Regulations.

#### 2.3 Acceptance of employment in the office of a minister, a minister of State, a secretary of State, or a member of Parliament

Upon request from a person appointed to the core public administration for leave without pay to accept employment in the office of a minister, a minister of State, a secretary of State, or a member of Parliament, the person with the delegated authority may grant leave without pay for other reasons for this purpose with the understanding that all the requirements with respect to leave without pay established in this Appendix are applicable.

##### 2.3.1 Political activity

Persons appointed to the core public administration are to consult their departmental human resources advisors to seek direction regarding the provisions related to political activity in the Public Service Employment Act as well as the role of the Public Service Commission.

#### 2.4 Seek nomination as or be a candidate in a federal, provincial, territorial or municipal election

Upon request from a person appointed to the core public administration for leave without pay for other reasons when the reason is to seek nomination as a candidate or to be a candidate in a federal, provincial, territorial or municipal election, the person with the delegated authority is to forward the request to the departmental human resources senior official, who is to forward the leave request to the Public Service Commission:

If the Public Service Commission grants permission to seek nomination as a candidate or to be a candidate in a federal, provincial, territorial or municipal election, the person appointed to the core public administration may proceed on leave without pay for other reasons. As such, all the requirements with respect to leave without pay established in this Appendix are applicable. The period of leave without pay ends on the day on which the results of the election are officially declared, or on an earlier day, as requested by the person if she or he has ceased to be a candidate.

When a person appointed to the core public administration is declared elected as a member of the House of Commons, the legislature of a province, the Council of the Yukon Territory, the Council of the Northwest Territories or the Legislative Assembly of Nunavut, the person ceases to be an employee pursuant to the Public Service Employment Act, and there is no entitlement to severance pay for this type of cessation of employment. If, however, the person resigns or retires before the date on which their employment would have been terminated for this reason, the person may be eligible to receive severance pay in accordance with the provisions of the relevant collective agreement and terms and conditions of employment.

#### 2.5 Serve in the Canadian Forces Reserve

Persons appointed to the core public administration who request leave to serve in Reserve Forces activities, as described in subsection 247.5(1) the Canada Labour Code as:

- a. an operation in Canada or abroad – including preparation, training, rest or travel or to the employee's residence – that is designated by the Minister of National Defence;

- b. an activity set out in the regulations;
- c. annual training for the prescribed period, or, if no period is prescribed, for a period of up to 15 days;
- d. training that they are ordered to take under paragraph 33(2)(a) of the National Defence Act;
- e. duties that they are called out on service to perform under paragraph 33(2)(b) of the National Defence Act;
- f. service in an aid of a civil power for which they are called out under section 275 of the National Defence Act

are to be granted leave without pay by persons with the delegated authority and cannot be replaced on an indeterminate basis, even if the absence is for a period exceeding one year. Such leave is to conform to the provisions of the *Reserve Forces Training Leave Regulations* made pursuant to the National Defence Act.

Persons on leave without pay for this purpose may only be replaced on a term basis and are to be reinstated in the position that they occupied on the day before the day on which the leave began. If the person with the delegated authority is not able to reinstate the person in that position by reason of a workforce adjustment, the workforce adjustment measures apply.

## Appendix C—Pre-Retirement Transition Leave: A Special Working Arrangement

### 1. Special working arrangement

Pre-retirement transition leave is a special working arrangement whereby eligible persons who are within two years of retirement have their workweek reduced by up to 40 per cent. For a full-time person, this represents up to two out of five working days.

Pay for the participating person would be adjusted to reflect the shorter workweek, but their pension and benefits coverage, as well as premiums and contributions, would continue at the pre-arrangement levels. The person would continue to be subject to the provisions of the relevant collective agreement or terms and conditions of employment and their employment status (full-time or part-time) would remain unchanged during the working arrangement.

### 2. Terms and conditions for approving pre-retirement

## transition leave

Persons with the delegated authority may approve pre-retirement transition leave if the following conditions have been met:

- a. operational requirements:
  - a thorough evaluation confirms that, for the two-year work-arrangement period, it is operationally feasible to allow the work arrangement (in other words, the quality of service or costs associated with service delivery would not be adversely affected);
- b. the person applying for the work arrangement must:
  - be a person appointed to the core public administration;
  - have indeterminate employment status;
  - not be surplus at the start of the leave arrangement;
  - be eligible for an unreduced pension at the start of the leave arrangement or be within two years of becoming eligible for an unreduced pension (for example, 53 years of age with at least 28 years of pensionable service or 58 years old with at least 2 years of pensionable service at the time of retirement) and agree to resign effective at the end of the leave arrangement (the employer's acceptance of the resignation is conditional upon the leave arrangement being completed);
  - agree not to work for the federal public service while on leave without pay,
  - agree to respect the measures established in the Values and Ethics Code for the Public Sector while on leave without pay; and
  - submit an Application for Pre-retirement Transition Leave Form (TBS 325-9E).

### 3. Modifying the special working arrangement

Once the pre-retirement transition leave application has been signed by both the participant and the person with the delegated authority, any changes to the arrangement may be made only in rare and unforeseen circumstances. A request, by the person, to change the working arrangement must be provided, in writing with reasonable notice, and may be approved at the discretion of the person with the delegated authority.

## 4. Cancellation of the special working arrangement

Cancellation of the approved pre-retirement transition leave working arrangement is to be allowed only in exceptional or unforeseen circumstances. A request, by the person, to cancel the working arrangement must be provided in writing, with reasonable notice, and may be approved at the discretion of the person with the delegated authority.

Only in rare and exceptional cases would management initiate cancellation of the pre-retirement transition leave working arrangement.

## 5. Effect of the special working arrangement on pay and benefits

### 5.1 Annual rate of pay

The annual rate of pay will be reduced to reflect the number of non-work days during the working arrangement.

Throughout this section the expression *unreduced rate of pay* refers to the annual rate of pay in effect before the commencement of the working arrangement. The term *reduced rate of pay* refers to the annual rate of pay in effect during the pre-retirement transition leave working arrangement.

### 5.2 Allowances

Allowances for which the person participating in the pre-retirement transition leave working arrangement may be eligible are to be paid in accordance with provisions set out in the relevant collective agreement or terms and conditions of employment.

### 5.3 Bilingualism bonus

Persons who are eligible to receive the bilingualism bonus will continue to receive it during the pre-retirement transition leave working arrangement for any month in which the person receives a minimum of 10 days' pay.

### 5.4 Overtime

Overtime worked during the working arrangement period is to be paid at the **unreduced** rate of pay in accordance with the overtime provisions of the relevant collective agreement or terms and conditions of employment.

## 5.5 Public service pension plan

The non-work days of the working arrangement count as pensionable service under the public service pension plan. The person's contributions to the pension plan will therefore be deducted based on the unreduced pay rate.

### Important note:

The Income Tax Act places certain maximums on the total amount of leave without pay, exclusive of sick leave without pay, that can be treated as pensionable service under a registered pension plan (including the public service pension plan). Compensation advisors will provide persons appointed to the core public administration with information regarding this exception.

## 5.6 Supplementary Death Benefit

The premium for Supplementary Death Benefit will be deducted based on the unreduced rate of pay because the benefits are payable based on the unreduced rate of pay.

## 5.7 Disability or long-term disability insurances

The premium for these insurance plans will be deducted based on the unreduced rate of pay because the coverage is based on the unreduced rate of pay.

## 5.8 Canada or Québec Pension Plan

Contributions and pensionable earnings to the Canada or Québec pension plans will be based on the person's reduced rate of pay only.

## 5.9 Employment Insurance

Premiums for Employment Insurance will be based on the reduced rate of pay.

## 5.10 Union dues

Union dues will be deducted in full from the reduced rate of pay.

## 5.11 Other voluntary payroll deductions

All other voluntary payroll deductions will continue to be deducted from the reduced rate of pay in the appropriate amounts if there are sufficient funds available.



## **5.12 Public Service Management Insurance Plan**

The premium for this insurance plan will be deducted based on the unreduced rate of pay because the coverage is based on the unreduced rate of pay.

## **5.13 Vacation and sick leave credits**

Vacation and sick leave credits will continue to be earned in accordance with the provisions of the relevant collective agreement or terms and conditions of employment.

Earned vacation and sick leave credits may be used on the at-work days only. Vacation and sick leave may not be granted for the non-work (leave without pay) days.

## **5.14 Designated paid holidays**

Full-time persons participating in the pre-retirement transition leave working arrangement are entitled to designated paid holidays in accordance with the relevant collective agreement or terms and conditions of employment if they are not on leave without pay on both the working day preceding the designated holiday **and** on the working day following the designated holiday.

If the person is entitled to the designated paid holiday and it falls on an at-work day, the person is paid for that day.

If the person is entitled to the designated paid holiday and it falls on a non-work day, the holiday is to be moved to the next day that the person would normally have been paid (in other words, the next at-work day).

## **5.15 Participation in other special working arrangements**

Persons participating in the pre-retirement transition leave working arrangement cannot participate in leave with income averaging.

# **Appendix D—Leave with Income Averaging: A Special Working Arrangement**

## **1. Special working arrangement**

Leave with income averaging is an arrangement whereby eligible persons reduce the number of weeks worked in a specific 12-month period by taking leave without pay for a period of between a minimum of 5 weeks and a maximum of 3 months.

Pay for the participating person would be reduced and averaged out over the 12-month period to reflect the reduced time at work; however, his or her pension and benefits coverage, as well as premiums and contributions, would continue at the pre-arrangement levels.

The person continues to be subject to the provisions of the relevant collective agreement or terms and conditions of employment, and his or her employment status (for example, full- or part-time) would remain unchanged during the working arrangement.

The leave without pay portion of the working arrangement may be taken in two periods within the 12-month period. Each period must be at least 5 weeks and the sum of the two periods must not exceed 3 months.

Although persons participating in the leave with income averaging working arrangement receive income throughout the 12-month period, the person is deemed to be on leave without pay during the non-work period of the arrangement.

## **2. Terms and conditions for approving leave with income averaging**

Persons with the delegated authority may approve leave with income averaging if the following conditions have been met:

- a. operational requirements:
  - a thorough evaluation confirms that for the 12-month work arrangement period it is operationally feasible to allow this work arrangement (in other words, the quality of service or costs associated with service delivery would not be adversely affected);
- b. the persons applying for the work arrangement must:
  - be a person appointed to the core public administration;
  - have indeterminate employment status;
  - not be surplus at the start of the leave arrangement;
  - agree not to work for the federal public service while on leave without pay;

- agree to respect the measures established in the Values and Ethics Code for the Public Sector while on leave without pay; and
- submit an Application for Leave with Income Averaging form (TBS 325-10E).

### 3. Modifying the special working arrangement

Once the leave with income averaging application has been signed by both the participant and the person with the delegated authority, any changes to the arrangement are to be made only in rare and unforeseen circumstances. A request, by the person, to change the working arrangement must be provided, in writing, with reasonable notice, and any changes may be approved at the discretion of the person with the delegated authority.

### 4. Cancellation of the special working arrangement

Because the financial implications are significant in the leave with income averaging working arrangement, only in rare and exceptional cases is the cancellation of the working arrangement to be considered.

A request, by the person, to cancel the working arrangement must be provided in writing with reasonable notice and may be approved at the discretion of the person with the delegated authority.

### 5. Effect of the special working arrangement on pay and benefits

#### 5.1 Annual rate of pay

The annual rate of pay will be reduced to reflect the period of non-work days that will be taken during the 12-month working arrangement period. The reduced salary rate will be averaged over the 12-month period.

Throughout this section the term *unreduced rate of pay* refers to the annual rate of pay in effect before the commencement of the special working arrangement. The term *reduced rate of pay* refers to the annual rate of pay in effect during the leave with income averaging working arrangement.

#### 5.2 Allowances

Allowances for which the person participating in the leave with income averaging working arrangements may be eligible are to be paid in accordance with the provisions established in the relevant collective agreement.

### **5.3 Bilingualism bonus**

Persons who are eligible to receive the bilingualism bonus will continue to receive the bonus during the leave with income averaging working arrangement for any month in which the person receives a minimum of 10 days' pay. The annual bilingualism bonus rate will be reduced to reflect the period of non-work days that will be taken during the 12-month working arrangement period. The reduced rate of the bilingualism bonus will be averaged over the 12-month period.

### **5.4 Overtime**

Overtime worked during the leave with income averaging working arrangement period is to be paid at the unreduced rate of pay in accordance with the overtime provisions of the relevant collective agreement.

### **5.5 Public service pension plan**

The non-work days (leave without pay) of the leave with income averaging working arrangement count as pensionable service under the public service pension plan. The person's contributions to the pension plan will therefore be deducted based on the unreduced rate of pay.

#### **Important note:**

The *Income Tax Act* places certain maximums on the total amount of leave without pay, exclusive of sick leave without pay, that can be treated as pensionable service under a registered pension plan (including the public service pension plan). Compensation advisors will provide persons appointed to the core public administration with information regarding this exception.

### **5.6 Supplementary Death Benefit**

The premium for Supplementary Death Benefit will be deducted based on the unreduced rate of pay because the benefits are payable based on the unreduced rate of pay.

### **5.7 Disability or long-term disability insurances**

The premium for these insurance plans will be deducted based on the unreduced

rate of pay because the coverage is based on the unreduced rate of pay.

### **5.8 Canada or Québec Pension Plan**

Contributions and pensionable earnings to the Canada or Québec pension plan will be based on the person's reduced rate of pay only.

### **5.9 Employment Insurance**

Premiums for Employment Insurance will be based on the unreduced pay rate. No deduction will be taken during the period of leave without pay (5 weeks to 3 months).

### **5.10 Union dues**

Union dues will be deducted in full from the reduced rate of pay. Union dues will not, however, be deducted when a person is on the leave without pay portion of the working arrangement for an entire calendar month.

### **5.11 Other voluntary payroll deductions**

All other voluntary payroll deductions will continue to be deducted from the reduced pay rate in the appropriate amounts if there are sufficient funds available.

### **5.12 Public Service Management Insurance Plan**

The premium for this insurance plan will be deducted based on the unreduced rate of pay because the coverage is based on the unreduced rate of pay.

### **5.13 Vacation and sick leave credits**

Vacation and sick leave credits will continue to be earned in accordance with the provisions of the relevant collective agreement or terms and conditions of employment.

Earned vacation and sick leave credits may be used on the at-work days' portion of the working arrangement only. During the leave without pay portion of the working arrangement, vacation and sick leave credits will be earned in accordance with relevant collective agreement or terms and conditions of employment.

### **5.14 Designated paid holidays**

Full-time persons participating in the leave with income averaging working arrangement are entitled to designated paid holidays in accordance with the relevant collective agreement or terms and conditions of employment.

### **5.15 Participation in other special working arrangements**

Persons participating in the leave with income averaging working arrangement cannot participate in the pre-retirement transition leave working arrangement.

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# Taking a leave of absence - Pension

During the course of your career in the federal public service, you may decide to take an unpaid absence (leave without pay) from work for personal or other reasons. You can find more information about leave without pay and how it can affect your pension benefits in the [Leave Without Pay Information Package](#).

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## You may want to know...

### ▼ Do you continue to contribute to the public service pension plan during periods of leave without pay?

Yes. You continue to contribute to the pension plan for the first three months of your leave without pay. After that period, you may choose to count or not to count the balance of your leave without pay as pensionable. For more information, refer to the [Leave Without Pay Information Package](#)

If you are on pre-retirement transition leave or leave with income averaging, your contributions will continue for the entire period of the leave.

### ▼ How much do you contribute to the pension plan for periods of leave without pay?

The amount that you contribute to the pension plan depends on the duration of your leave and type of leave you are taking.

- In most cases the contribution rate for the first three months of a period of leave without pay is at single rate, meaning that you are only required to pay your share of contributions.
- For your period of leave after the first three months, you will be required to pay contributions at either single or double rate (your share and the employer's share of the contributions). Further information on contribution rates for specific types of leave without pay can be found in the [Leave Without Pay Information Package](#).

### ▼ Can you choose not to count your period of leave without pay for pension purposes?



Yes. While still employed, in most cases you may choose not to count periods of leave without pay in excess of the first three months. Further information and deadlines to proceed with this option are available in the [Leave Without Pay Information Package](#).

There is no option to count or not to count periods of pre-retirement transition leave or leave with income averaging. As leave with income averaging cannot exceed three months, pension contributions are required for the full period. For transition leave, you are also required to contribute not just for the first three months but for the entire period of leave.

#### ▼ Can you choose not to count your period of leave without pay for pension purposes and then change your mind?

Yes. Even after you have chosen not to count your leave without pay, you can, at a later date, decide to count the service through a service buyback. The cost, however, will be higher since interest will be charged. You may refer to the [Service Buyback Package](#) for more information.

#### ▼ Are there limits on how much leave without pay may be counted for pension purposes?

Yes. The [Income Tax Act](#) places restrictions on the total periods of leave without pay that can be treated as pensionable during an individual's career. The maximum permitted is 5 years,

excluding sick leave without pay. However, you may also be credited with an additional three years of leave without pay for parenting purposes. The 5-year maximum may also be exceeded for "on-loan" situations where the services of a public service employee are loaned out to another employer.

More information on the tax implications of taking a period of leave without pay is available in the [Leave Without Pay Information Package](#).

### ▼ Are you still covered under the Supplementary Death Benefit (SDB) Plan while you are away on leave without pay?

Yes. You remain covered under the [Supplementary Death Benefit](#) (SDB) Plan and contributions for the full period of leave without pay are owed upon your return to work.

### ▼ When do you have to pay your pension and Supplementary Death Benefit (SDB) contributions for your period of leave without pay?

You are not required to pay your contributions until you return to work. At that time, the [Government of Canada Pension Centre](#) will advise you of the amounts owing and payment methods. If, however, you are approved on a period of leave without pay for "On loan" purposes, you will be required to pay

your contributions in advance. For pre-retirement transition leave and leave with income averaging, contributions will continue to be collected from your salary.

### ▼ What payment options are available to you for your contributions?

You can make payments for your pension contributions at any time in a lump sum by personal cheque, postal or bank money order. Otherwise, your pension contributions will be recovered by salary deductions upon your return to work. In certain situations it may also be possible to use your Registered Retirement Savings Plan (RRSP) to pay your pension contributions. Payment options are discussed further in the [Leave Without Pay Information Package](#).

### ▼ Do you continue to pay your service buyback payments while on leave without pay?

Yes. Service buyback payments must be made on an on-going basis during the period of your leave without pay. The use of the [Payment Transmittal Form \(PWGSC-TPSGC 570\)](#) is recommended when forwarding your payment(s) to the Pension Centre. For pre-retirement transition leave and leave with income averaging, service buyback payments will continue to be collected from your salary.

**▼ Can you accept a term position while you are on leave without pay from your permanent job?**

Yes and if you do you are considered to be in a dual employment situation. You must advise both your employers that you are working elsewhere as your benefits may be affected. Dual employment may also impact your requirement to contribute, timing of payment of deficiencies and your option to count periods of leave without pay as pensionable. Further information on dual employment is available in the [Leave Without Pay Information Package](#).

Visit [Public service group insurance benefit plans](#) for information on benefits.

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